

CERTIFICATE

6649

STATE OF ILLINOIS)

)

SS.

COUNTY OF C O O K)

RECORDED AT THE CLERK'S OFFICE OF THE CLERK OF THE CIRCUIT COURT OF THE JUDICIAL CIRCUIT IN AND FOR THE COUNTY OF COOK, ILLINOIS, ON JUNE 29, 1972.

JUNE 29 1972

NOTARY PUBLIC, COOK COUNTY, ILLINOIS

I, R. W. Spangenberg, a Notary Public in and for the State of Illinois, County of Cook, residing therein, DO HEREBY CERTIFY that I have compared the conformed copy of the document to which this certificate is appended, with an executed counterpart thereof and that said conformed copy is a true and correct copy in all respects.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal at my office in Chicago, Cook County, Illinois this 29th day of June, 1972.



Notary Public, Cook
County, Illinois

My Commission expires November 16, 1975

6049

FIRST MORTGAGE

CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC
RAILROAD COMPANY

TO

CONTINENTAL ILLINOIS NATIONAL BANK AND
TRUST COMPANY OF CHICAGO

TRUSTEE

DATED AS OF JANUARY 1, 1944

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Northwest Quarter of Section 9, Township 23 North, Range 45 East, in Manito, Washington, and having a length of approximately..... 19.87

ITEM (25). Beginning at a point near the crossing of the tracks of the Northern Pacific Railway Company in the South Half of Section 16, Township 25 North, Range 43 East, in the City of Spokane, Washington, and extending in a general westerly direction to the west line of Center Street in said Spokane, and having a length of approximately..... 1.70

ITEM (26). Beginning at a connection with the line of Pacific Coast Railroad Company at the north line of Island No. 1 in Section 18, Township 22 North, Range 14 East, in the City of Seattle, Washington, and extending in a general northwesterly direction to a point in Railroad Avenue between Atlantic Street and Connecticut Street in said Seattle, and having a length of approximately 1.47

ITEM (27). Beginning at Tacoma Junction, Washington, and extending in a general westerly direction to Pacific Avenue in the City of Tacoma, Washington, and having a length of approximately 2.10

Total miles of main track in *Group A*..... 5,855.38

Group B: Branch lines, first main track:

ITEM (1). Beginning at a connection with the line described in ITEM (2) of *Group A* at Chicago and Evanston Junction, Illinois, and extending in a general westerly direction to a connection with the line described in ITEM (1) of *Group A* at Pacific Junction, Illinois, and having a length of approximately..... 3.42

ITEM (2). Beginning at a connection with the line described in ITEM (5) of *Group A* at Fourth

Avenue East in Spencer, Iowa, and extending in a general northerly direction to Parsons Street in Spirit Lake, Iowa, and having a length of approximately 20.60

ITEM (3). Beginning at a connection with the line described in ITEM (1) of *Group A* about 400 feet northerly of the Elgin, Joliet and Eastern Railway crossing in Rondout, Illinois, and extending in a general northwesterly direction through Bardwell, Wisconsin, to a connection with the line described in ITEM (23) of *Group A* near Wall Street in Janesville, Wisconsin, and having a length of approximately..... 66.50

ITEM (4). Beginning at a connection with the line described in ITEM (11) of *Group A* about 1600 feet northerly of Warren Street in Rockton, Illinois, and extending in a general southerly direction to a point about 1000 feet southeasterly of Cedar Street in Rockford, Illinois, and having a length of approximately..... 15.04

ITEM (5). Beginning about 100 feet easterly of Seventh Street in Rockford, Illinois, and extending in a general southerly direction to a point in the Southeast Quarter of Section 11, Township 43 North, Range 1 East, in Camp Grant, Illinois, and having a length of approximately 4.48

ITEM (6). Beginning at a connection with the line described in item (17) of granting clause SEVENTH at a point about 500 feet east of Main Street in Ladd, Illinois, and extending in a general northerly direction to a point about 300 feet north of Cherry Avenue in Cherry, Illinois, and having a length of approximately..... 2.98

ITEM (7). Beginning at a connection with the line described in ITEM (14) of *Group A* at a point about 200 feet south of Hampton Avenue in North Milwaukee, Wisconsin, and ex-

tending in a general southeasterly direction to a point about 300 feet south of West Juneau Avenue (formerly Chestnut Street) in the City of Milwaukee, Wisconsin, (said line being known as the Chestnut Street Line in said Milwaukee) and having a length of approximately 6.27

ITEM (8). Beginning at a connection with the line described in ITEM (14) of *Group A* at a point in the Northwest Quarter of Section 8, Township 8 North, Range 21 East, in Granville, Wisconsin, and extending in a general westerly direction to a point about 400 feet east of Hartford Road in North Lake, Wisconsin, and having a length of approximately..... 19.60

ITEM (9). Beginning at a connection with the line described in ITEM (14) of *Group A* at a point about 500 feet southeasterly of Pleasant Street in Iron Ridge, Wisconsin, and extending in a general northerly direction to about Scott Street in Fond du Lac, Wisconsin, and having a length of approximately..... 29.03

ITEM (10). Beginning at a connection with the line described in ITEM (14) of *Group A* at a point near Main Street in Horicon, Wisconsin, and extending in a general northwesterly direction to Huron Street in Berlin, Wisconsin, and having a length of approximately..... 42.30

ITEM (11). Beginning at a connection with the line described in ITEM (10) of this *Group B* at a point near Jefferson Street in Brandon, Wisconsin, and extending in a general westerly direction to a point in the Southwest Quarter of Section 5, Township 14 North, Range 13 East, in Markesan, Wisconsin, and having a length of approximately 11.49

ITEM (12). Beginning at a connection with the line described in ITEM (10) of this *Group B* at Doty Street in Ripon, Wisconsin, and extending

Street in Rockwell City, Iowa, and extending in a general northwesterly direction through Storm Lake, Iowa, to a point in the Northwest Quarter of Section 36, Township 93 North, Range 37 West, in Rembrandt, Iowa, and having a length of approximately 51.91

ITEM (80). Beginning at a connection with the line described in ITEM (1) of *Group A* at Moreau Junction, South Dakota, and extending in a general southwesterly direction to a point in the Northwest Quarter of Section 32, Township 17 North, Range 22 East, in Isabel, South Dakota, and having a length of approximately 59.39

ITEM (81). Beginning at a connection with the line described in ITEM (80) of this *Group B* at a point in the Southwest Quarter of Section 31, Township 18 North, Range 28 East, in Trail City, South Dakota, and extending in a general southwesterly direction to a point in the Southeast Quarter of Section 4, Township 12 North, Range 17 East, in Faith, South Dakota, and having a length of approximately 106.49

ITEM (82). Beginning at a connection with the line described in ITEM (1) of *Group A* at a point in the Northeast Quarter of Section 6, Township 22 North, Range 27 East, in McLaughlin, South Dakota, and extending in a general northwesterly direction to a point in the Northwest Quarter of Section 4, Township 135 North, Range 97 West, in New England, North Dakota, and having a length of approximately 133.96

ITEM (83). Beginning at a connection with the line described in ITEM (1) of *Group A* at a point in the Northeast Quarter of Section 27, Township 8 North, Range 15 East, in Harlowton, Montana, and extending in a general northeasterly and northwesterly direction through Lewistown, Montana, to a point in the South Half of Section 18, Township 26 North, Range 4 West, in

Agawam, Montana, and having a length of approximately 235.81

ITEM (84). Beginning at a connection with the line described in ITEM (83) of this *Group B* at Lewistown Junction, Montana, and extending in a general easterly direction to a point in the Northeast Quarter of Section 6, Township 14 North, Range 27 East, in Winnett, Montana, and having a length of approximately..... 58.96

ITEM (85). Beginning at a connection with the line described in ITEM (83) of this *Group B* at Roy-Winifred Junction, Montana, near Lewistown, Montana, and extending in a general northeasterly direction to a point in the Southwest Quarter of Section 8, Township 18 North, Range 22 East, in Roy, Montana, and having a length of approximately..... 42.49

ITEM (86). Beginning at a connection with the line described in ITEM (85) of this *Group B* at Roy Junction, Montana, and extending in a general northerly direction to a point in the Southeast Quarter of Section 23, Township 21 North, Range 18 East, in Winifred, Montana, and having a length of approximately..... 23.09

ITEM (87). Beginning at a connection with the line described in ITEM (1) of *Group A* at a point in the Southeast Quarter of Section 14, Township 6 North, Range 7 East, in Ringling Montana, and extending in a general northerly direction to a connection with the White Sulphur Springs and Yellowstone Park Railway Company's line in the Northwest Quarter of Section 6, Township 6 North, Range 8 East, near Dorsey, Montana, and having a length of approximately 3.62

ITEM (88). Beginning at a connection with the line described in ITEM (1) of *Group A* at a point in the Northwest Quarter of Section 25, Township 2 North, Range 1 East, in Three Forks, Montana, and extending in a general south-

easterly and northeasterly direction through Bozeman, Montana, to a point near Main Street in Menard, Montana, and having a length of approximately 62.73

ITEM (89). Beginning at a connection with the line described in ITEM (88) of this *Group B* at Belgrade Junction, Montana, and extending in a general northeasterly direction to Broadway Street in Belgrade, Montana, and having a length of approximately..... 5.22

ITEM (90). Beginning at a connection with the line described in ITEM (88) of this *Group B* at a point in the Southwest Quarter of Section 13, Township 2 South, Range 4 East, in Bozeman Hot Springs, Montana, and extending in a general southerly direction to a point in the Northwest Quarter of Section 11, Township 3 South, Range 4 East, in Gallatin Gateway, Montana, and having a length of approximately..... 4.99

ITEM (91). Beginning at a connection with the line described in ITEM (1) of *Group A* at Bonner Junction, Montana, and extending in a general northeasterly direction to a point in the Northwest Quarter of Section 29, Township 15 North, Range 13 West, in Cottonwood, Montana, and having a length of approximately..... 40.04

ITEM (92). Beginning at a connection with the line described in ITEM (1) of *Group A* near First Avenue in St. Maries, Idaho, and extending in a general southeasterly direction to a point in the Northeast Quarter of Section 24, Township 41 North, Range 1 West, in Purdue, Idaho; also beginning at a point in the Northeast Quarter of Section 36, Township 41 North, Range 1 West, in Bovill, Idaho, and extending in a general southeasterly direction to a point in the Northwest Quarter of Section 26, Township 40 North, Range 2 East, in Elk River, Idaho, the lines described in this ITEM (92) having a total length of approximately 69.98

tro-Motive Division) and Henry A. Scandrett, Walter J. Cummings and George I. Haight, as Trustees of the Debtor's property, assigned to Seattle-First National Bank, covering the following equipment:

5 diesel-electric freight locomotives, numbered 35 to 39, both inclusive; and

5 diesel-electric passenger locomotives, numbered 16 to 20, both inclusive.

- (q) Conditional sale agreement, dated as of June 25, 1945, between Fairbanks, Morse & Company and Henry A. Scandrett, Walter J. Cummings and George I. Haight, as Trustees of the Debtor's property, assigned to Seattle-First National Bank, covering the following equipment:

10 diesel-electric switching locomotives, numbered 1803 to 1812, both inclusive.

- (r) Conditional sale agreement dated as of July 25, 1945, between The Baldwin Locomotive Works and Henry A. Scandrett, Walter J. Cummings and George I. Haight, as Trustees of the Debtor's property, assigned to Seattle-First National Bank, covering the following equipment:

4 diesel-electric switching locomotives, numbered 1688 to 1691, both inclusive.

- (s) Conditional sale agreement, dated as of August 10, 1945, between American Locomotive Company and Henry A. Scandrett, Walter J. Cummings and George I. Haight, as Trustees of the Debtor's property, assigned to Seattle-First National Bank, covering the following equipment:

6 diesel-electric switching locomotives, numbered 1657 to 1662, both inclusive.

- (t) Conditional sale agreement, dated as of September 5, 1945, between Paul B. Robb and Edward J. Friedrich, Owners, and Henry A. Scandrett, Walter J. Cummings and George I. Haight, as

Trustees of the Debtor's property, assigned to Seattle-First National Bank, covering the following equipment:

500 flat cars, numbered 65969 to 66468, both inclusive; and

25 cabooses, numbered 01950 to 01974, both inclusive,

under which Equipment Obligations the unpaid balance of outstanding obligations as of the close of business on October 31, 1945, aggregated \$23,250,837.92 in principal amount;

(2) All and singular the other matters hereinabove set forth in the granting clauses hereof and to Permitted Encumbrances as defined in Article I but only to the extent that the same shall constitute a prior lien or charge of record against any part of the mortgaged property;

BUT IN TRUST, NEVERTHELESS, upon the terms and conditions of the Mortgage, for the equal and proportionate benefit and security, except as provided in Section 1 of Article XVI, of all present and future holders of Bonds and coupons, according to their tenor, purport and effect, without preference, priority or distinction (except as provided in Section 1 of Article XVI) as to lien or otherwise; so that (except as aforesaid) each and every Bond and coupon shall have the same right, lien and privilege under the Mortgage and shall be equally and ratably secured thereby in accordance with the provisions of the Mortgage;

AND IT IS HEREBY COVENANTED AND DECLARED that all of the Bonds and coupons for interest thereon, if any, are to be issued, authenticated and delivered, and that the mortgaged property is to be held and disposed of by the Trustee, upon and subject to the following covenants, conditions, uses and trusts:

ARTICLE I

DEFINITIONS

The terms defined in this Article I (unless otherwise expressly provided or unless the context otherwise requires) shall have the respective meanings specified in this Article I for all purposes of the Mortgage.

(1) "Additions and Betterments" shall mean all physical property, or any undivided interest therein, of the Railroad Company becoming subject to the lien of the Mortgage, or located on any leasehold that is subject to the lien of the Mortgage (except the lease of the property of Chicago, Terre Haute and Southeastern Railway Company), acquired or constructed by the Railroad Company, or by the trustees of the Debtor's property in the reorganization proceedings above mentioned, after December 31, 1943, the cost or investment in which, at the time of acquisition or construction, was properly chargeable to Capital Accounts.

(2) "Additions and Betterments Fund" shall mean the fund created and maintained by the Railroad Company in accordance with the provisions of Article VI.

(3) "Application" shall mean a letter or other instrument in writing dated and signed, not more than 30 days prior to its delivery to the Trustee, by the President or a Vice President of the Railroad Company and by either (a) the Secretary or an Assistant Secretary of the Railroad Company, or (b) the Chief Accounting Officer of the Railroad Company, setting forth briefly the nature of the matter or action covered by the application, referring to the particular provision or provisions of the Mortgage upon which the application is based,

and enumerating the resolutions, certificates, opinions, securities, cash, instruments of transfer and other papers and documents or property delivered or to be delivered to the Trustee with or in connection with such application.

(4) "Available Net Income" for any calendar year shall mean the consolidated income of the Railroad Company and its Railroad Subsidiaries for such year available for fixed charges, after deducting therefrom all fixed charges accrued during such year and all other charges properly deductible therefrom in determining consolidated income after fixed charges for such year exclusive of Contingent Interest (whether or not payable in the form of rent for leased properties) for such year and amounts required to be deposited in the Additions and Betterments Fund and in sinking funds for the retirement of Bonds and General Mortgage Bonds out of Available Net Income for such year, subject to the following:

(a) Consolidated income available for fixed charges and the deductions required to be made therefrom shall be determined in accordance with the Uniform System of Accounts applicable to such year, except that there shall be added thereto such amounts as shall have been charged to operating expenses during such year representing the service value (i.e. the ledger value less the value of salvage, if any) of any non-depreciable roadway property retired and not replaced.

(b) In determining consolidated income after fixed charges for any year any adjustment necessary to correct the income account for any prior year, whether before or after January 1, 1944, shall be made by appropriate entries and may be made either in the accounts of the current year (unless in violation of the applicable orders, instructions and regulations) or, in the discre-

Railroad Company shall be deposited and pledged with the Trustee.

(d) The Trustee shall be furnished with an Opinion of Counsel stating that (1) such sale is in accordance with the provisions of the Mortgage, (2) the Trustee is authorized under the terms of the Mortgage to comply with the request of the Railroad Company in consummation of the sale, (3) any purchase money obligations mentioned in the Certificate provided for in subdivision (b) of this Section 12 are valid obligations, secured by a valid and enforceable pledge of the Securities to be sold, free and clear of prior liens, (4) such pledge contains appropriate provision for the security and protection of the Bonds, and (5) all necessary consent or approval of all governmental authorities for the sale and acquisition of such Securities has been obtained or that no such consent or approval is necessary; and said opinion shall be accompanied by a certified copy of any such consent or approval specified in said opinion to be necessary.

(e) The Trustee shall be furnished with a Certified Resolution authorizing the sale of the Securities mentioned in the Certificate provided for in subdivision (b) of this Section 12, and requesting the release thereof from the lien of the Mortgage.

Upon receipt by the Trustee of the instruments mentioned in subdivisions (b), (d) and (e) of this Section 12, and the consideration to be received by the Railroad Company as therein stated, the Trustee shall release from the lien of the Mortgage, and deliver to or upon the written order of the Railroad Company, all Securities so to be sold at the time held by the Trustee.

SECTION 13. In case an Event of Default shall have occurred and be continuing, the Railroad Company may do any

of the things authorized to be done by it in Sections 2, 3, 5, 7, 8 and 12 of this Article X upon compliance by it with the respective provisions of said sections, if the Trustee, in the exercise of its discretion, in writing expressly authorizes or assents to such action. The Trustee shall so authorize or assent to such action if requested by the holders of a majority in principal amount of the Outstanding Bonds.

SECTION 14. All moneys received by the Trustee in respect of any Securities deposited and pledged hereunder, unless the Railroad Company shall be entitled to receive the same under the provisions of Section 2 of this Article X, shall be held, paid out or applied by it as in the case of money deposited upon the release of mortgaged property, in the manner provided in Section 7 of Article XI.

SECTION 15. The Railroad Company covenants and agrees that forthwith on demand of the Trustee it will pay, or will provide for in a manner satisfactory to the Trustee, all expenditures incurred by the Trustee under any of the provisions of this Article X, including all sums required to obtain and perfect the ownership and title to any property which the Trustee shall cause or authorize to be purchased pursuant to any provision of this Article X; and the Trustee in its discretion, without impairment of or prejudice to any of its rights under the Mortgage by reason of any default of the Railroad Company, may but shall not be obligated to advance any or all such expenses and such other moneys as may be required, or may procure such advances to be made by others, and for such advances made by the Trustee or by others at its request, with interest thereon at the rate of 4% per annum, the Trustee shall have a lien upon the mortgaged property in priority to the lien of the Bonds, except as to funds held in trust for the benefit of the holders of particular Bonds or coupons.

Avenue East in Spencer, Iowa, and extending in a general northerly direction to Parsons Street in Spirit Lake, Iowa, and having a length of approximately 20.60

ITEM (3). Beginning at a connection with the line described in ITEM (1) of *Group A* about 400 feet northerly of the Elgin, Joliet and Eastern Railway crossing in Rondout, Illinois, and extending in a general northwesterly direction through Bardwell, Wisconsin, to a connection with the line described in ITEM (23) of *Group A* near Wall Street in Janesville, Wisconsin, and having a length of approximately..... 66.50

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ITEM (5). Beginning about 100 feet easterly of Seventh Street in Rockford, Illinois, and extending in a general southerly direction to a point in the Southeast Quarter of Section 11, Township 43 North, Range 1 East, in Camp Grant, Illinois, and having a length of approximately 4.48

ITEM (6). Beginning at a connection with the line described in item (17) of granting clause SEVENTH at a point about 500 feet east of Main Street in Ladd, Illinois, and extending in a general northerly direction to a point about 300 feet north of Cherry Avenue in Cherry, Illinois, and having a length of approximately..... 2.98

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ITEM (8). Beginning at a connection with the line described in ITEM (14) of *Group A* at a point in the Northwest Quarter of Section 8, Township 8 North, Range 21 East, in Granville, Wisconsin, and extending in a general westerly direction to a point about 400 feet east of Hartford Road in North Lake, Wisconsin, and having a length of approximately..... 19.60

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ITEM (12). Beginning at a connection with the line described in ITEM (10) of this *Group B* at Doty Street in Ripon, Wisconsin, and extending

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ITEM (80). Beginning at a connection with the line described in ITEM (1) of *Group A* at Moreau Junction, South Dakota, and extending in a general southwesterly direction to a point in the Northwest Quarter of Section 32, Township 17 North, Range 22 East, in Isabel, South Dakota, and having a length of approximately 59.39

ITEM (81). Beginning at a connection with the line described in ITEM (80) of this *Group B* at a point in the Southwest Quarter of Section 31, Township 18 North, Range 28 East, in Trail City, South Dakota, and extending in a general southwesterly direction to a point in the Southeast Quarter of Section 4, Township 12 North, Range 17 East, in Faith, South Dakota, and having a length of approximately 106.49

ITEM (82). Beginning at a connection with the line described in ITEM (1) of *Group A* at a point in the Northeast Quarter of Section 6, Township 22 North, Range 27 East, in McLaughlin, South Dakota, and extending in a general northwesterly direction to a point in the Northwest Quarter of Section 4, Township 135 North, Range 97 West, in New England, North Dakota, and having a length of approximately 133.96

ITEM (83). Beginning at a connection with the line described in ITEM (1) of *Group A* at a point in the Northeast Quarter of Section 27, Township 8 North, Range 15 East, in Harlowton, Montana, and extending in a general northeasterly and northwesterly direction through Lewistown, Montana, to a point in the South Half of Section 18, Township 26 North, Range 4 West, in

Agawam, Montana, and having a length of approximately 235.81

ITEM (84). Beginning at a connection with the line described in ITEM (83) of this *Group B* at Lewistown Junction, Montana, and extending in a general easterly direction to a point in the Northeast Quarter of Section 6, Township 14 North, Range 27 East, in Winnett, Montana, and having a length of approximately..... 58.96

ITEM (85). Beginning at a connection with the line described in ITEM (83) of this *Group B* at Roy-Winifred Junction, Montana, near Lewistown, Montana, and extending in a general northeasterly direction to a point in the Southwest Quarter of Section 8, Township 18 North, Range 22 East, in Roy, Montana, and having a length of approximately..... 42.49

ITEM (86). Beginning at a connection with the line described in ITEM (85) of this *Group B* at Roy Junction, Montana, and extending in a general northerly direction to a point in the Southeast Quarter of Section 23, Township 21 North, Range 18 East, in Winifred, Montana, and having a length of approximately..... 23.09

ITEM (87). Beginning at a connection with the line described in ITEM (1) of *Group A* at a point in the Southeast Quarter of Section 14, Township 6 North, Range 7 East, in Ringling Montana, and extending in a general northerly direction to a connection with the White Sulphur Springs and Yellowstone Park Railway Company's line in the Northwest Quarter of Section 6, Township 6 North, Range 8 East, near Dorsey, Montana, and having a length of approximately 3.62

ITEM (88). Beginning at a connection with the line described in ITEM (1) of *Group A* at a point in the Northwest Quarter of Section 25, Township 2 North, Range 1 East, in Three Forks, Montana, and extending in a general south-

easterly and northeasterly direction through Bozeman, Montana, to a point near Main Street in Menard, Montana, and having a length of approximately 62.73

ITEM (89). Beginning at a connection with the line described in ITEM (88) of this *Group B* at Belgrade Junction, Montana, and extending in a general northeasterly direction to Broadway Street in Belgrade, Montana, and having a length of approximately..... 5.22

ITEM (90). Beginning at a connection with the line described in ITEM (88) of this *Group B* at a point in the Southwest Quarter of Section 13, Township 2 South, Range 4 East, in Bozeman Hot Springs, Montana, and extending in a general southerly direction to a point in the Northwest Quarter of Section 11, Township 3 South, Range 4 East, in Gallatin Gateway, Montana, and having a length of approximately..... 4.99

ITEM (91). Beginning at a connection with the line described in ITEM (1) of *Group A* at Bonner Junction, Montana, and extending in a general northeasterly direction to a point in the Northwest Quarter of Section 29, Township 15 North, Range 13 West, in Cottonwood, Montana, and having a length of approximately..... 40.04

ITEM (92). Beginning at a connection with the line described in ITEM (1) of *Group A* near First Avenue in St. Maries, Idaho, and extending in a general southeasterly direction to a point in the Northeast Quarter of Section 24, Township 41 North, Range 1 West, in Purdue, Idaho; also beginning at a point in the Northeast Quarter of Section 36, Township 41 North, Range 1 West, in Bovill, Idaho, and extending in a general southeasterly direction to a point in the Northwest Quarter of Section 26, Township 40 North, Range 2 East, in Elk River, Idaho, the lines described in this ITEM (92) having a total length of approximately 69.98

tro-Motive Division) and Henry A. Scandrett, Walter J. Cummings and George I. Haight, as Trustees of the Debtor's property, assigned to Seattle-First National Bank, covering the following equipment:

5 diesel-electric freight locomotives, numbered 35 to 39, both inclusive; and

5 diesel-electric passenger locomotives, numbered 16 to 20, both inclusive.

- (q) Conditional sale agreement, dated as of June 25, 1945, between Fairbanks, Morse & Company and Henry A. Scandrett, Walter J. Cummings and George I. Haight, as Trustees of the Debtor's property, assigned to Seattle-First National Bank, covering the following equipment:

10 diesel-electric switching locomotives, numbered 1803 to 1812, both inclusive.

- (r) Conditional sale agreement dated as of July 25, 1945, between The Baldwin Locomotive Works and Henry A. Scandrett, Walter J. Cummings and George I. Haight, as Trustees of the Debtor's property, assigned to Seattle-First National Bank, covering the following equipment:

4 diesel-electric switching locomotives, numbered 1688 to 1691, both inclusive.

- (s) Conditional sale agreement, dated as of August 10, 1945, between American Locomotive Company and Henry A. Scandrett, Walter J. Cummings and George I. Haight, as Trustees of the Debtor's property, assigned to Seattle-First National Bank, covering the following equipment:

6 diesel-electric switching locomotives, numbered 1657 to 1662, both inclusive.

- (t) Conditional sale agreement, dated as of September 5, 1945, between Paul B. Robb and Edward J. Friedrich, Owners, and Henry A. Scandrett, Walter J. Cummings and George I. Haight, as

Trustees of the Debtor's property, assigned to Seattle-First National Bank, covering the following equipment:

500 flat cars, numbered 65969 to 66468, both inclusive; and

25 cabooses, numbered 01950 to 01974, both inclusive,

under which Equipment Obligations the unpaid balance of outstanding obligations as of the close of business on October 31, 1945, aggregated \$23,250,837.92 in principal amount;

(2) All and singular the other matters hereinabove set forth in the granting clauses hereof and to Permitted Encumbrances as defined in Article I but only to the extent that the same shall constitute a prior lien or charge of record against any part of the mortgaged property;

BUT IN TRUST, NEVERTHELESS, upon the terms and conditions of the Mortgage, for the equal and proportionate benefit and security, except as provided in Section 1 of Article XVI, of all present and future holders of Bonds and coupons, according to their tenor, purport and effect, without preference, priority or distinction (except as provided in Section 1 of Article XVI) as to lien or otherwise; so that (except as aforesaid) each and every Bond and coupon shall have the same right, lien and privilege under the Mortgage and shall be equally and ratably secured thereby in accordance with the provisions of the Mortgage;

AND IT IS HEREBY COVENANTED AND DECLARED that all of the Bonds and coupons for interest thereon, if any, are to be issued, authenticated and delivered, and that the mortgaged property is to be held and disposed of by the Trustee, upon and subject to the following covenants, conditions, uses and trusts:

ARTICLE I

DEFINITIONS

The terms defined in this Article I (unless otherwise expressly provided or unless the context otherwise requires) shall have the respective meanings specified in this Article I for all purposes of the Mortgage.

(1) "Additions and Betterments" shall mean all physical property, or any undivided interest therein, of the Railroad Company becoming subject to the lien of the Mortgage, or located on any leasehold that is subject to the lien of the Mortgage (except the lease of the property of Chicago, Terre Haute and Southeastern Railway Company), acquired or constructed by the Railroad Company, or by the trustees of the Debtor's property in the reorganization proceedings above mentioned, after December 31, 1943, the cost or investment in which, at the time of acquisition or construction, was properly chargeable to Capital Accounts.

(2) "Additions and Betterments Fund" shall mean the fund created and maintained by the Railroad Company in accordance with the provisions of Article VI.

(3) "Application" shall mean a letter or other instrument in writing dated and signed, not more than 30 days prior to its delivery to the Trustee, by the President or a Vice President of the Railroad Company and by either (a) the Secretary or an Assistant Secretary of the Railroad Company, or (b) the Chief Accounting Officer of the Railroad Company, setting forth briefly the nature of the matter or action covered by the application, referring to the particular provision or provisions of the Mortgage upon which the application is based,

and enumerating the resolutions, certificates, opinions, securities, cash, instruments of transfer and other papers and documents or property delivered or to be delivered to the Trustee with or in connection with such application.

(4) "Available Net Income" for any calendar year shall mean the consolidated income of the Railroad Company and its Railroad Subsidiaries for such year available for fixed charges, after deducting therefrom all fixed charges accrued during such year and all other charges properly deductible therefrom in determining consolidated income after fixed charges for such year exclusive of Contingent Interest (whether or not payable in the form of rent for leased properties) for such year and amounts required to be deposited in the Additions and Betterments Fund and in sinking funds for the retirement of Bonds and General Mortgage Bonds out of Available Net Income for such year, subject to the following:

(a) Consolidated income available for fixed charges and the deductions required to be made therefrom shall be determined in accordance with the Uniform System of Accounts applicable to such year, except that there shall be added thereto such amounts as shall have been charged to operating expenses during such year representing the service value (i.e. the ledger value less the value of salvage, if any) of any non-depreciable roadway property retired and not replaced.

(b) In determining consolidated income after fixed charges for any year any adjustment necessary to correct the income account for any prior year, whether before or after January 1, 1944, shall be made by appropriate entries and may be made either in the accounts of the current year (unless in violation of the applicable orders, instructions and regulations) or, in the discre-

Railroad Company shall be deposited and pledged with the Trustee.

(d) The Trustee shall be furnished with an Opinion of Counsel stating that (1) such sale is in accordance with the provisions of the Mortgage, (2) the Trustee is authorized under the terms of the Mortgage to comply with the request of the Railroad Company in consummation of the sale, (3) any purchase money obligations mentioned in the Certificate provided for in subdivision (b) of this Section 12 are valid obligations, secured by a valid and enforceable pledge of the Securities to be sold, free and clear of prior liens, (4) such pledge contains appropriate provision for the security and protection of the Bonds, and (5) all necessary consent or approval of all governmental authorities for the sale and acquisition of such Securities has been obtained or that no such consent or approval is necessary; and said opinion shall be accompanied by a certified copy of any such consent or approval specified in said opinion to be necessary.

(e) The Trustee shall be furnished with a Certified Resolution authorizing the sale of the Securities mentioned in the Certificate provided for in subdivision (b) of this Section 12, and requesting the release thereof from the lien of the Mortgage.

Upon receipt by the Trustee of the instruments mentioned in subdivisions (b), (d) and (e) of this Section 12, and the consideration to be received by the Railroad Company as therein stated, the Trustee shall release from the lien of the Mortgage, and deliver to or upon the written order of the Railroad Company, all Securities so to be sold at the time held by the Trustee.

SECTION 13. In case an Event of Default shall have occurred and be continuing, the Railroad Company may do any

Northwest Quarter of Section 9, Township 23 North, Range 45 East, in Manito, Washington, and having a length of approximately..... 19.87

ITEM (25). Beginning at a point near the crossing of the tracks of the Northern Pacific Railway Company in the South Half of Section 16, Township 25 North, Range 43 East, in the City of Spokane, Washington, and extending in a general westerly direction to the west line of Center Street in said Spokane, and having a length of approximately..... 1.70

ITEM (26). Beginning at a connection with the line of Pacific Coast Railroad Company at the north line of Island No. 1 in Section 18, Township 22 North, Range 14 East, in the City of Seattle, Washington, and extending in a general northwesterly direction to a point in Railroad Avenue between Atlantic Street and Connecticut Street in said Seattle, and having a length of approximately 1.47

ITEM (27). Beginning at Tacoma Junction, Washington, and extending in a general westerly direction to Pacific Avenue in the City of Tacoma, Washington, and having a length of approximately 2.10

Total miles of main track in *Group A*..... 5,855.38

Group B: Branch lines, first main track:

ITEM (1). Beginning at a connection with the line described in ITEM (2) of *Group A* at Chicago and Evanston Junction, Illinois, and extending in a general westerly direction to a connection with the line described in ITEM (1) of *Group A* at Pacific Junction, Illinois, and having a length of approximately..... 3.42

ITEM (2). Beginning at a connection with the line described in ITEM (5) of *Group A* at Fourth

Avenue East in Spencer, Iowa, and extending in a general northerly direction to Parsons Street in Spirit Lake, Iowa, and having a length of approximately 20.60

ITEM (3). Beginning at a connection with the line described in ITEM (1) of *Group A* about 400 feet northerly of the Elgin, Joliet and Eastern Railway crossing in Rondout, Illinois, and extending in a general northwesterly direction through Bardwell, Wisconsin, to a connection with the line described in ITEM (23) of *Group A* near Wall Street in Janesville, Wisconsin, and having a length of approximately..... 66.50

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Trustees of the Debtor's property, assigned to Seattle-First National Bank, covering the following equipment:

500 flat cars, numbered 65969 to 66468, both inclusive; and

25 cabooses, numbered 01950 to 01974, both inclusive,

under which Equipment Obligations the unpaid balance of outstanding obligations as of the close of business on October 31, 1945, aggregated \$23,250,837.92 in principal amount;

(2) All and singular the other matters hereinabove set forth in the granting clauses hereof and to Permitted Encumbrances as defined in Article I but only to the extent that the same shall constitute a prior lien or charge of record against any part of the mortgaged property;

BUT IN TRUST, NEVERTHELESS, upon the terms and conditions of the Mortgage, for the equal and proportionate benefit and security, except as provided in Section 1 of Article XVI, of all present and future holders of Bonds and coupons, according to their tenor, purport and effect, without preference, priority or distinction (except as provided in Section 1 of Article XVI) as to lien or otherwise; so that (except as aforesaid) each and every Bond and coupon shall have the same right, lien and privilege under the Mortgage and shall be equally and ratably secured thereby in accordance with the provisions of the Mortgage;

AND IT IS HEREBY COVENANTED AND DECLARED that all of the Bonds and coupons for interest thereon, if any, are to be issued, authenticated and delivered, and that the mortgaged property is to be held and disposed of by the Trustee, upon and subject to the following covenants, conditions, uses and trusts:

ARTICLE I

DEFINITIONS

The terms defined in this Article I (unless otherwise expressly provided or unless the context otherwise requires) shall have the respective meanings specified in this Article I for all purposes of the Mortgage.

(1) "Additions and Betterments" shall mean all physical property, or any undivided interest therein, of the Railroad Company becoming subject to the lien of the Mortgage, or located on any leasehold that is subject to the lien of the Mortgage (except the lease of the property of Chicago, Terre Haute and Southeastern Railway Company), acquired or constructed by the Railroad Company, or by the trustees of the Debtor's property in the reorganization proceedings above mentioned, after December 31, 1943, the cost or investment in which, at the time of acquisition or construction, was properly chargeable to Capital Accounts.

(2) "Additions and Betterments Fund" shall mean the fund created and maintained by the Railroad Company in accordance with the provisions of Article VI.

(3) "Application" shall mean a letter or other instrument in writing dated and signed, not more than 30 days prior to its delivery to the Trustee, by the President or a Vice President of the Railroad Company and by either (a) the Secretary or an Assistant Secretary of the Railroad Company, or (b) the Chief Accounting Officer of the Railroad Company, setting forth briefly the nature of the matter or action covered by the application, referring to the particular provision or provisions of the Mortgage upon which the application is based,

and enumerating the resolutions, certificates, opinions, securities, cash, instruments of transfer and other papers and documents or property delivered or to be delivered to the Trustee with or in connection with such application.

(4) "Available Net Income" for any calendar year shall mean the consolidated income of the Railroad Company and its Railroad Subsidiaries for such year available for fixed charges, after deducting therefrom all fixed charges accrued during such year and all other charges properly deductible therefrom in determining consolidated income after fixed charges for such year exclusive of Contingent Interest (whether or not payable in the form of rent for leased properties) for such year and amounts required to be deposited in the Additions and Betterments Fund and in sinking funds for the retirement of Bonds and General Mortgage Bonds out of Available Net Income for such year, subject to the following:

(a) Consolidated income available for fixed charges and the deductions required to be made therefrom shall be determined in accordance with the Uniform System of Accounts applicable to such year, except that there shall be added thereto such amounts as shall have been charged to operating expenses during such year representing the service value (i.e. the ledger value less the value of salvage, if any) of any non-depreciable roadway property retired and not replaced.

(b) In determining consolidated income after fixed charges for any year any adjustment necessary to correct the income account for any prior year, whether before or after January 1, 1944, shall be made by appropriate entries and may be made either in the accounts of the current year (unless in violation of the applicable orders, instructions and regulations) or, in the discre-

Northwest Quarter of Section 9, Township 23 North, Range 45 East, in Manito, Washington, and having a length of approximately..... 19.87

ITEM (25). Beginning at a point near the crossing of the tracks of the Northern Pacific Railway Company in the South Half of Section 16, Township 25 North, Range 43 East, in the City of Spokane, Washington, and extending in a general westerly direction to the west line of Center Street in said Spokane, and having a length of approximately..... 1.70

ITEM (26). Beginning at a connection with the line of Pacific Coast Railroad Company at the north line of Island No. 1 in Section 18, Township 22 North, Range 14 East, in the City of Seattle, Washington, and extending in a general northwesterly direction to a point in Railroad Avenue between Atlantic Street and Connecticut Street in said Seattle, and having a length of approximately 1.47

ITEM (27). Beginning at Tacoma Junction, Washington, and extending in a general westerly direction to Pacific Avenue in the City of Tacoma, Washington, and having a length of approximately 2.10

Total miles of main track in *Group A*..... 5,855.38

Group B: Branch lines, first main track:

ITEM (1). Beginning at a connection with the line described in ITEM (2) of *Group A* at Chicago and Evanston Junction, Illinois, and extending in a general westerly direction to a connection with the line described in ITEM (1) of *Group A* at Pacific Junction, Illinois, and having a length of approximately..... 3.42

ITEM (2). Beginning at a connection with the line described in ITEM (5) of *Group A* at Fourth

Avenue East in Spencer, Iowa, and extending in a general northerly direction to Parsons Street in Spirit Lake, Iowa, and having a length of approximately 20.60

ITEM (3). Beginning at a connection with the line described in ITEM (1) of *Group A* about 400 feet northerly of the Elgin, Joliet and Eastern Railway crossing in Rondout, Illinois, and extending in a general northwesterly direction through Bardwell, Wisconsin, to a connection with the line described in ITEM (23) of *Group A* near Wall Street in Janesville, Wisconsin, and having a length of approximately..... 66.50

ITEM (4). Beginning at a connection with the line described in ITEM (11) of *Group A* about 1600 feet northerly of Warren Street in Rockton, Illinois, and extending in a general southerly direction to a point about 1000 feet southeasterly of Cedar Street in Rockford, Illinois, and having a length of approximately..... 15.04

ITEM (5). Beginning about 100 feet easterly of Seventh Street in Rockford, Illinois, and extending in a general southerly direction to a point in the Southeast Quarter of Section 11, Township 43 North, Range 1 East, in Camp Grant, Illinois, and having a length of approximately 4.48

ITEM (6). Beginning at a connection with the line described in item (17) of granting clause SEVENTH at a point about 500 feet east of Main Street in Ladd, Illinois, and extending in a general northerly direction to a point about 300 feet north of Cherry Avenue in Cherry, Illinois, and having a length of approximately..... 2.98

ITEM (7). Beginning at a connection with the line described in ITEM (14) of *Group A* at a point about 200 feet south of Hampton Avenue in North Milwaukee, Wisconsin, and ex-

tending in a general southeasterly direction to a point about 300 feet south of West Juneau Avenue (formerly Chestnut Street) in the City of Milwaukee, Wisconsin, (said line being known as the Chestnut Street Line in said Milwaukee) and having a length of approximately 6.27

ITEM (8). Beginning at a connection with the line described in ITEM (14) of *Group A* at a point in the Northwest Quarter of Section 8, Township 8 North, Range 21 East, in Granville, Wisconsin, and extending in a general westerly direction to a point about 400 feet east of Hartford Road in North Lake, Wisconsin, and having a length of approximately..... 19.60

ITEM (9). Beginning at a connection with the line described in ITEM (14) of *Group A* at a point about 500 feet southeasterly of Pleasant Street in Iron Ridge, Wisconsin, and extending in a general northerly direction to about Scott Street in Fond du Lac, Wisconsin, and having a length of approximately..... 29.03

ITEM (10). Beginning at a connection with the line described in ITEM (14) of *Group A* at a point near Main Street in Horicon, Wisconsin, and extending in a general northwesterly direction to Huron Street in Berlin, Wisconsin, and having a length of approximately..... 42.30

ITEM (11). Beginning at a connection with the line described in ITEM (10) of this *Group B* at a point near Jefferson Street in Brandon, Wisconsin, and extending in a general westerly direction to a point in the Southwest Quarter of Section 5, Township 14 North, Range 13 East, in Markesan, Wisconsin, and having a length of approximately 11.49

ITEM (12). Beginning at a connection with the line described in ITEM (10) of this *Group B* at Doty Street in Ripon, Wisconsin, and extending

Street in Rockwell City, Iowa, and extending in a general northwesterly direction through Storm Lake, Iowa, to a point in the Northwest Quarter of Section 36, Township 93 North, Range 37 West, in Rembrandt, Iowa, and having a length of approximately 51.91

ITEM (80). Beginning at a connection with the line described in ITEM (1) of *Group A* at Moreau Junction, South Dakota, and extending in a general southwesterly direction to a point in the Northwest Quarter of Section 32, Township 17 North, Range 22 East, in Isabel, South Dakota, and having a length of approximately 59.39

ITEM (81). Beginning at a connection with the line described in ITEM (80) of this *Group B* at a point in the Southwest Quarter of Section 31, Township 18 North, Range 28 East, in Trail City, South Dakota, and extending in a general southwesterly direction to a point in the Southeast Quarter of Section 4, Township 12 North, Range 17 East, in Faith, South Dakota, and having a length of approximately 106.49

ITEM (82). Beginning at a connection with the line described in ITEM (1) of *Group A* at a point in the Northeast Quarter of Section 6, Township 22 North, Range 27 East, in McLaughlin, South Dakota, and extending in a general northwesterly direction to a point in the Northwest Quarter of Section 4, Township 135 North, Range 97 West, in New England, North Dakota, and having a length of approximately 133.96

ITEM (83). Beginning at a connection with the line described in ITEM (1) of *Group A* at a point in the Northeast Quarter of Section 27, Township 8 North, Range 15 East, in Harlowton, Montana, and extending in a general northeasterly and northwesterly direction through Lewistown, Montana, to a point in the South Half of Section 18, Township 26 North, Range 4 West, in

Agawam, Montana, and having a length of approximately 235.81

ITEM (84). Beginning at a connection with the line described in ITEM (83) of this *Group B* at Lewistown Junction, Montana, and extending in a general easterly direction to a point in the Northeast Quarter of Section 6, Township 14 North, Range 27 East, in Winnett, Montana, and having a length of approximately..... 58.96

ITEM (85). Beginning at a connection with the line described in ITEM (83) of this *Group B* at Roy-Winifred Junction, Montana, near Lewistown, Montana, and extending in a general northeasterly direction to a point in the Southwest Quarter of Section 8, Township 18 North, Range 22 East, in Roy, Montana, and having a length of approximately..... 42.49

ITEM (86). Beginning at a connection with the line described in ITEM (85) of this *Group B* at Roy Junction, Montana, and extending in a general northerly direction to a point in the Southeast Quarter of Section 23, Township 21 North, Range 18 East, in Winifred, Montana, and having a length of approximately..... 23.09

ITEM (87). Beginning at a connection with the line described in ITEM (1) of *Group A* at a point in the Southeast Quarter of Section 14, Township 6 North, Range 7 East, in Ringling Montana, and extending in a general northerly direction to a connection with the White Sulphur Springs and Yellowstone Park Railway Company's line in the Northwest Quarter of Section 6, Township 6 North, Range 8 East, near Dorsey, Montana, and having a length of approximately 3.62

ITEM (88). Beginning at a connection with the line described in ITEM (1) of *Group A* at a point in the Northwest Quarter of Section 25, Township 2 North, Range 1 East, in Three Forks, Montana, and extending in a general south-

easterly and northeasterly direction through Bozeman, Montana, to a point near Main Street in Menard, Montana, and having a length of approximately 62.73

ITEM (89). Beginning at a connection with the line described in ITEM (88) of this *Group B* at Belgrade Junction, Montana, and extending in a general northeasterly direction to Broadway Street in Belgrade, Montana, and having a length of approximately..... 5.22

ITEM (90). Beginning at a connection with the line described in ITEM (88) of this *Group B* at a point in the Southwest Quarter of Section 13, Township 2 South, Range 4 East, in Bozeman Hot Springs, Montana, and extending in a general southerly direction to a point in the Northwest Quarter of Section 11, Township 3 South, Range 4 East, in Gallatin Gateway, Montana, and having a length of approximately..... 4.99

ITEM (91). Beginning at a connection with the line described in ITEM (1) of *Group A* at Bonner Junction, Montana, and extending in a general northeasterly direction to a point in the Northwest Quarter of Section 29, Township 15 North, Range 13 West, in Cottonwood, Montana, and having a length of approximately..... 40.04

ITEM (92). Beginning at a connection with the line described in ITEM (1) of *Group A* near First Avenue in St. Maries, Idaho, and extending in a general southeasterly direction to a point in the Northeast Quarter of Section 24, Township 41 North, Range 1 West, in Purdue, Idaho; also beginning at a point in the Northeast Quarter of Section 36, Township 41 North, Range 1 West, in Bovill, Idaho, and extending in a general southeasterly direction to a point in the Northwest Quarter of Section 26, Township 40 North, Range 2 East, in Elk River, Idaho, the lines described in this ITEM (92) having a total length of approximately 69.98

tro-Motive Division) and Henry A. Scandrett, Walter J. Cummings and George I. Haight, as Trustees of the Debtor's property, assigned to Seattle-First National Bank, covering the following equipment:

5 diesel-electric freight locomotives, numbered 35 to 39, both inclusive; and

5 diesel-electric passenger locomotives, numbered 16 to 20, both inclusive.

- (q) Conditional sale agreement, dated as of June 25, 1945, between Fairbanks, Morse & Company and Henry A. Scandrett, Walter J. Cummings and George I. Haight, as Trustees of the Debtor's property, assigned to Seattle-First National Bank, covering the following equipment:

10 diesel-electric switching locomotives, numbered 1803 to 1812, both inclusive.

- (r) Conditional sale agreement dated as of July 25, 1945, between The Baldwin Locomotive Works and Henry A. Scandrett, Walter J. Cummings and George I. Haight, as Trustees of the Debtor's property, assigned to Seattle-First National Bank, covering the following equipment:

4 diesel-electric switching locomotives, numbered 1688 to 1691, both inclusive.

- (s) Conditional sale agreement, dated as of August 10, 1945, between American Locomotive Company and Henry A. Scandrett, Walter J. Cummings and George I. Haight, as Trustees of the Debtor's property, assigned to Seattle-First National Bank, covering the following equipment:

6 diesel-electric switching locomotives, numbered 1657 to 1662, both inclusive.

- (t) Conditional sale agreement, dated as of September 5, 1945, between Paul B. Robb and Edward J. Friedrich, Owners, and Henry A. Scandrett, Walter J. Cummings and George I. Haight, as

Trustees of the Debtor's property, assigned to Seattle-First National Bank, covering the following equipment:

500 flat cars, numbered 65969 to 66468, both inclusive; and

25 cabooses, numbered 01950 to 01974, both inclusive,

under which Equipment Obligations the unpaid balance of outstanding obligations as of the close of business on October 31, 1945, aggregated \$23,250,837.92 in principal amount;

(2) All and singular the other matters hereinabove set forth in the granting clauses hereof and to Permitted Encumbrances as defined in Article I but only to the extent that the same shall constitute a prior lien or charge of record against any part of the mortgaged property;

BUT IN TRUST, NEVERTHELESS, upon the terms and conditions of the Mortgage, for the equal and proportionate benefit and security, except as provided in Section 1 of Article XVI, of all present and future holders of Bonds and coupons, according to their tenor, purport and effect, without preference, priority or distinction (except as provided in Section 1 of Article XVI) as to lien or otherwise; so that (except as aforesaid) each and every Bond and coupon shall have the same right, lien and privilege under the Mortgage and shall be equally and ratably secured thereby in accordance with the provisions of the Mortgage;

AND IT IS HEREBY COVENANTED AND DECLARED that all of the Bonds and coupons for interest thereon, if any, are to be issued, authenticated and delivered, and that the mortgaged property is to be held and disposed of by the Trustee, upon and subject to the following covenants, conditions, uses and trusts:

ARTICLE I

DEFINITIONS

The terms defined in this Article I (unless otherwise expressly provided or unless the context otherwise requires) shall have the respective meanings specified in this Article I for all purposes of the Mortgage.

(1) "Additions and Betterments" shall mean all physical property, or any undivided interest therein, of the Railroad Company becoming subject to the lien of the Mortgage, or located on any leasehold that is subject to the lien of the Mortgage (except the lease of the property of Chicago, Terre Haute and Southeastern Railway Company), acquired or constructed by the Railroad Company, or by the trustees of the Debtor's property in the reorganization proceedings above mentioned, after December 31, 1943, the cost or investment in which, at the time of acquisition or construction, was properly chargeable to Capital Accounts.

(2) "Additions and Betterments Fund" shall mean the fund created and maintained by the Railroad Company in accordance with the provisions of Article VI.

(3) "Application" shall mean a letter or other instrument in writing dated and signed, not more than 30 days prior to its delivery to the Trustee, by the President or a Vice President of the Railroad Company and by either (a) the Secretary or an Assistant Secretary of the Railroad Company, or (b) the Chief Accounting Officer of the Railroad Company, setting forth briefly the nature of the matter or action covered by the application, referring to the particular provision or provisions of the Mortgage upon which the application is based,

and enumerating the resolutions, certificates, opinions, securities, cash, instruments of transfer and other papers and documents or property delivered or to be delivered to the Trustee with or in connection with such application.

(4) "Available Net Income" for any calendar year shall mean the consolidated income of the Railroad Company and its Railroad Subsidiaries for such year available for fixed charges, after deducting therefrom all fixed charges accrued during such year and all other charges properly deductible therefrom in determining consolidated income after fixed charges for such year exclusive of Contingent Interest (whether or not payable in the form of rent for leased properties) for such year and amounts required to be deposited in the Additions and Betterments Fund and in sinking funds for the retirement of Bonds and General Mortgage Bonds out of Available Net Income for such year, subject to the following:

(a) Consolidated income available for fixed charges and the deductions required to be made therefrom shall be determined in accordance with the Uniform System of Accounts applicable to such year, except that there shall be added thereto such amounts as shall have been charged to operating expenses during such year representing the service value (i.e. the ledger value less the value of salvage, if any) of any non-depreciable roadway property retired and not replaced.

(b) In determining consolidated income after fixed charges for any year any adjustment necessary to correct the income account for any prior year, whether before or after January 1, 1944, shall be made by appropriate entries and may be made either in the accounts of the current year (unless in violation of the applicable orders, instructions and regulations) or, in the discre-

Railroad Company shall be deposited and pledged with the Trustee.

(d) The Trustee shall be furnished with an Opinion of Counsel stating that (1) such sale is in accordance with the provisions of the Mortgage, (2) the Trustee is authorized under the terms of the Mortgage to comply with the request of the Railroad Company in consummation of the sale, (3) any purchase money obligations mentioned in the Certificate provided for in subdivision (b) of this Section 12 are valid obligations, secured by a valid and enforceable pledge of the Securities to be sold, free and clear of prior liens, (4) such pledge contains appropriate provision for the security and protection of the Bonds, and (5) all necessary consent or approval of all governmental authorities for the sale and acquisition of such Securities has been obtained or that no such consent or approval is necessary; and said opinion shall be accompanied by a certified copy of any such consent or approval specified in said opinion to be necessary.

(e) The Trustee shall be furnished with a Certified Resolution authorizing the sale of the Securities mentioned in the Certificate provided for in subdivision (b) of this Section 12, and requesting the release thereof from the lien of the Mortgage.

Upon receipt by the Trustee of the instruments mentioned in subdivisions (b), (d) and (e) of this Section 12, and the consideration to be received by the Railroad Company as therein stated, the Trustee shall release from the lien of the Mortgage, and deliver to or upon the written order of the Railroad Company, all Securities so to be sold at the time held by the Trustee.

SECTION 13. In case an Event of Default shall have occurred and be continuing, the Railroad Company may do any

of the things authorized to be done by it in Sections 2, 3, 5, 7, 8 and 12 of this Article X upon compliance by it with the respective provisions of said sections, if the Trustee, in the exercise of its discretion, in writing expressly authorizes or assents to such action. The Trustee shall so authorize or assent to such action if requested by the holders of a majority in principal amount of the Outstanding Bonds.

SECTION 14. All moneys received by the Trustee in respect of any Securities deposited and pledged hereunder, unless the Railroad Company shall be entitled to receive the same under the provisions of Section 2 of this Article X, shall be held, paid out or applied by it as in the case of money deposited upon the release of mortgaged property, in the manner provided in Section 7 of Article XI.

SECTION 15. The Railroad Company covenants and agrees that forthwith on demand of the Trustee it will pay, or will provide for in a manner satisfactory to the Trustee, all expenditures incurred by the Trustee under any of the provisions of this Article X, including all sums required to obtain and perfect the ownership and title to any property which the Trustee shall cause or authorize to be purchased pursuant to any provision of this Article X; and the Trustee in its discretion, without impairment of or prejudice to any of its rights under the Mortgage by reason of any default of the Railroad Company, may but shall not be obligated to advance any or all such expenses and such other moneys as may be required, or may procure such advances to be made by others, and for such advances made by the Trustee or by others at its request, with interest thereon at the rate of 4% per annum, the Trustee shall have a lien upon the mortgaged property in priority to the lien of the Bonds, except as to funds held in trust for the benefit of the holders of particular Bonds or coupons.

ARTICLE XI

POSSESSION, USE AND RELEASE OF PROPERTY

SECTION 1. While the Railroad Company shall remain in possession of the mortgaged property, it shall be entitled to manage, operate, use and enjoy all and singular the property subject to the Mortgage (except any cash or Securities deposited or pledged or required to be deposited or pledged with the Trustee under the terms of the Mortgage) and to receive, take and use the rents, incomes and profits thereof subject to the terms of the Mortgage. The subsequent provisions of this Section 1 are for the purpose of permitting the advantageous use of the property subject to the Mortgage in the operation and management of the business so as most judiciously to maintain the value of such property of the Railroad Company and the value of the security for the Bonds.

PART A. While remaining in possession of the mortgaged property, the Railroad Company shall be entitled in the usual and ordinary conduct of its business:

(a) to alter, repair, dismantle when no longer useful, replace, change and add to its buildings, roadways, trackage, Equipment, materials, supplies and any other physical property;

(b) to make any change in the location of its lines, tracks, station houses, buildings or other structures situated upon or comprising any part of the property subject to the Mortgage to other premises, if said lines, tracks, station houses, buildings, structures and the premises whereon they shall be relocated shall be or concurrently become subject to the lien of the Mortgage to the same extent and with the same priority of lien as before such relocation; and

(c) to modify the rights under, or to abandon or terminate, any trackage, terminal, operating or other contract, agree-

ment or lease, easement, franchise, license, authority or permit under which the Railroad Company may now or hereafter conduct its railroad operations; provided, in the case of any modification, that the same does not substantially impair the rights of the Railroad Company in its railroad operations, shorten the term of any leasehold on which are located Additions and Betterments which have been Bonded or Otherwise Financed, or in the judgment of the Railroad Company impair the security or interests of the Bondholders, and in the case of any abandonment or termination, that such rights are no longer required for the railroad operations of the Railroad Company, and that rights of operation, substantially equivalent as to scope and term, are otherwise owned or are concurrently to be acquired and subjected to the lien of the Mortgage to the same extent and with the same priority of lien as existed prior to the modification, abandonment or termination.

PART B. To increase operating efficiency and effect economies by elimination of unnecessary trackage or unnecessary duplication of trackage within its own transportation system which is subject to the lien of the Mortgage, and by facilitating the coordination of operations of such transportation system with operations of the transportation systems of other railroads, the Railroad Company, while remaining in possession of the mortgaged property, may, under the conditions and upon compliance with the provisions of Sections 2 and 3 of this Article XI to the extent applicable:

(a) Sell, exchange for other property, abandon, lease or otherwise dispose of any part, substantially less than all, of its lines of railroad (including any leasehold, easement, trackage right or other interest therein) subject to the lien of the Mortgage, but only if, at or prior to such sale, exchange, abandonment, lease or other disposition,

(1) there shall be filed with the Trustee a Certified Resolution determining and expressing the judgment of the Board of Directors that

- (i) such sale, exchange, abandonment, lease or other disposition will increase operating efficiency and effect economies by elimination of unnecessary trackage or unnecessary duplication of trackage within the Railroad Company's own transportation system then subject to the lien of the Mortgage, or by facilitating the coordination of operations of such transportation system with operations of the transportation systems of other railroads, and will not substantially impair the ability of the Railroad Company to handle the traffic of its transportation system, and
- (ii) that the property so to be sold, exchanged, abandoned, leased or otherwise disposed of is no longer deemed necessary or expedient in the operation of its transportation system and that the security or interests of the Bondholders will not be impaired thereby; and

(2) there shall also be filed with the Trustee, as to any part of such lines of railroad (including any leasehold, trackage right or other interest therein) desired to be sold, exchanged, abandoned, leased or otherwise disposed of, an Officers' Certificate stating and setting forth the facts relied upon to show that

- (i) such part of said lines of railroad is a branch or spur line, or is otherwise so separable from any main line serving principal points, that such sale, exchange, abandonment, lease or other disposition will not break the continuity of such main line between the principal points served thereby, or

- (ii) after said sale, exchange, abandonment, lease or other disposition there will remain at least one other route subject to the lien of the Mortgage between the principal points served by the part of such line to be sold, exchanged, abandoned, leased or otherwise disposed of, over which the traffic of its transportation system between such principal points may be handled with substantially equal facility, or
 - (iii) the Railroad Company has acquired, or upon such sale, exchange, abandonment, lease or other disposition will acquire, rights over lines of another railroad company through joint ownership, lease or trackage agreement whereby facilities will be available for general continuity of operation of its transportation system which are substantially equivalent to the facilities therefor of the lines of railroad to be sold, exchanged, abandoned, leased or otherwise disposed of, and that any such lease or trackage agreement, as evidenced by an Opinion of Counsel furnished to the Trustee, will extend at least beyond the latest date of maturity of any of the Bonds then outstanding and will not be subject to termination prior to its expiration date on account of any lien on the property covered thereby; and
- (3) there shall be pledged with the Trustee or otherwise subjected to the lien of the Mortgage, subject only to Permitted Encumbrances, in such manner as shall be deemed sufficient in an Opinion of Counsel furnished to the Trustee, any and all rights of joint ownership, leases, and trackage agreements acquired by the Railroad Company and referred to in such Officers' Certificate pursuant to the preceding clause (2) (iii).

Street in Rockwell City, Iowa, and extending in a general northwesterly direction through Storm Lake, Iowa, to a point in the Northwest Quarter of Section 36, Township 93 North, Range 37 West, in Rembrandt, Iowa, and having a length of approximately 51.91

ITEM (80). Beginning at a connection with the line described in ITEM (1) of *Group A* at Moreau Junction, South Dakota, and extending in a general southwesterly direction to a point in the Northwest Quarter of Section 32, Township 17 North, Range 22 East, in Isabel, South Dakota, and having a length of approximately 59.39

ITEM (81). Beginning at a connection with the line described in ITEM (80) of this *Group B* at a point in the Southwest Quarter of Section 31, Township 18 North, Range 28 East, in Trail City, South Dakota, and extending in a general southwesterly direction to a point in the Southeast Quarter of Section 4, Township 12 North, Range 17 East, in Faith, South Dakota, and having a length of approximately 106.49

ITEM (82). Beginning at a connection with the line described in ITEM (1) of *Group A* at a point in the Northeast Quarter of Section 6, Township 22 North, Range 27 East, in McLaughlin, South Dakota, and extending in a general northwesterly direction to a point in the Northwest Quarter of Section 4, Township 135 North, Range 97 West, in New England, North Dakota, and having a length of approximately 133.96

ITEM (83). Beginning at a connection with the line described in ITEM (1) of *Group A* at a point in the Northeast Quarter of Section 27, Township 8 North, Range 15 East, in Harlowton, Montana, and extending in a general northeasterly and northwesterly direction through Lewistown, Montana, to a point in the South Half of Section 18, Township 26 North, Range 4 West, in

Agawam, Montana, and having a length of approximately 235.81

ITEM (84). Beginning at a connection with the line described in ITEM (83) of this *Group B* at Lewistown Junction, Montana, and extending in a general easterly direction to a point in the Northeast Quarter of Section 6, Township 14 North, Range 27 East, in Winnett, Montana, and having a length of approximately..... 58.96

ITEM (85). Beginning at a connection with the line described in ITEM (83) of this *Group B* at Roy-Winifred Junction, Montana, near Lewistown, Montana, and extending in a general northeasterly direction to a point in the Southwest Quarter of Section 8, Township 18 North, Range 22 East, in Roy, Montana, and having a length of approximately..... 42.49

ITEM (86). Beginning at a connection with the line described in ITEM (85) of this *Group B* at Roy Junction, Montana, and extending in a general northerly direction to a point in the Southeast Quarter of Section 23, Township 21 North, Range 18 East, in Winifred, Montana, and having a length of approximately..... 23.09

ITEM (87). Beginning at a connection with the line described in ITEM (1) of *Group A* at a point in the Southeast Quarter of Section 14, Township 6 North, Range 7 East, in Ringling Montana, and extending in a general northerly direction to a connection with the White Sulphur Springs and Yellowstone Park Railway Company's line in the Northwest Quarter of Section 6, Township 6 North, Range 8 East, near Dorsey, Montana, and having a length of approximately 3.62

ITEM (88). Beginning at a connection with the line described in ITEM (1) of *Group A* at a point in the Northwest Quarter of Section 25, Township 2 North, Range 1 East, in Three Forks, Montana, and extending in a general south-

easterly and northeasterly direction through Bozeman, Montana, to a point near Main Street in Menard, Montana, and having a length of approximately 62.73

ITEM (89). Beginning at a connection with the line described in ITEM (88) of this *Group B* at Belgrade Junction, Montana, and extending in a general northeasterly direction to Broadway Street in Belgrade, Montana, and having a length of approximately..... 5.22

ITEM (90). Beginning at a connection with the line described in ITEM (88) of this *Group B* at a point in the Southwest Quarter of Section 13, Township 2 South, Range 4 East, in Bozeman Hot Springs, Montana, and extending in a general southerly direction to a point in the Northwest Quarter of Section 11, Township 3 South, Range 4 East, in Gallatin Gateway, Montana, and having a length of approximately..... 4.99

ITEM (91). Beginning at a connection with the line described in ITEM (1) of *Group A* at Bonner Junction, Montana, and extending in a general northeasterly direction to a point in the Northwest Quarter of Section 29, Township 15 North, Range 13 West, in Cottonwood, Montana, and having a length of approximately..... 40.04

ITEM (92). Beginning at a connection with the line described in ITEM (1) of *Group A* near First Avenue in St. Maries, Idaho, and extending in a general southeasterly direction to a point in the Northeast Quarter of Section 24, Township 41 North, Range 1 West, in Purdue, Idaho; also beginning at a point in the Northeast Quarter of Section 36, Township 41 North, Range 1 West, in Bovill, Idaho, and extending in a general southeasterly direction to a point in the Northwest Quarter of Section 26, Township 40 North, Range 2 East, in Elk River, Idaho, the lines described in this ITEM (92) having a total length of approximately 69.98

tro-Motive Division) and Henry A. Scandrett, Walter J. Cummings and George I. Haight, as Trustees of the Debtor's property, assigned to Seattle-First National Bank, covering the following equipment:

5 diesel-electric freight locomotives, numbered 35 to 39, both inclusive; and

5 diesel-electric passenger locomotives, numbered 16 to 20, both inclusive.

- (q) Conditional sale agreement, dated as of June 25, 1945, between Fairbanks, Morse & Company and Henry A. Scandrett, Walter J. Cummings and George I. Haight, as Trustees of the Debtor's property, assigned to Seattle-First National Bank, covering the following equipment:

10 diesel-electric switching locomotives, numbered 1803 to 1812, both inclusive.

- (r) Conditional sale agreement dated as of July 25, 1945, between The Baldwin Locomotive Works and Henry A. Scandrett, Walter J. Cummings and George I. Haight, as Trustees of the Debtor's property, assigned to Seattle-First National Bank, covering the following equipment:

4 diesel-electric switching locomotives, numbered 1688 to 1691, both inclusive.

- (s) Conditional sale agreement, dated as of August 10, 1945, between American Locomotive Company and Henry A. Scandrett, Walter J. Cummings and George I. Haight, as Trustees of the Debtor's property, assigned to Seattle-First National Bank, covering the following equipment:

6 diesel-electric switching locomotives, numbered 1657 to 1662, both inclusive.

- (t) Conditional sale agreement, dated as of September 5, 1945, between Paul B. Robb and Edward J. Friedrich, Owners, and Henry A. Scandrett, Walter J. Cummings and George I. Haight, as

Trustees of the Debtor's property, assigned to Seattle-First National Bank, covering the following equipment:

500 flat cars, numbered 65969 to 66468, both inclusive; and

25 cabooses, numbered 01950 to 01974, both inclusive,

under which Equipment Obligations the unpaid balance of outstanding obligations as of the close of business on October 31, 1945, aggregated \$23,250,837.92 in principal amount;

(2) All and singular the other matters hereinabove set forth in the granting clauses hereof and to Permitted Encumbrances as defined in Article I but only to the extent that the same shall constitute a prior lien or charge of record against any part of the mortgaged property;

BUT IN TRUST, NEVERTHELESS, upon the terms and conditions of the Mortgage, for the equal and proportionate benefit and security, except as provided in Section 1 of Article XVI, of all present and future holders of Bonds and coupons, according to their tenor, purport and effect, without preference, priority or distinction (except as provided in Section 1 of Article XVI) as to lien or otherwise; so that (except as aforesaid) each and every Bond and coupon shall have the same right, lien and privilege under the Mortgage and shall be equally and ratably secured thereby in accordance with the provisions of the Mortgage;

AND IT IS HEREBY COVENANTED AND DECLARED that all of the Bonds and coupons for interest thereon, if any, are to be issued, authenticated and delivered, and that the mortgaged property is to be held and disposed of by the Trustee, upon and subject to the following covenants, conditions, uses and trusts:

ARTICLE I

DEFINITIONS

The terms defined in this Article I (unless otherwise expressly provided or unless the context otherwise requires) shall have the respective meanings specified in this Article I for all purposes of the Mortgage.

(1) "Additions and Betterments" shall mean all physical property, or any undivided interest therein, of the Railroad Company becoming subject to the lien of the Mortgage, or located on any leasehold that is subject to the lien of the Mortgage (except the lease of the property of Chicago, Terre Haute and Southeastern Railway Company), acquired or constructed by the Railroad Company, or by the trustees of the Debtor's property in the reorganization proceedings above mentioned, after December 31, 1943, the cost or investment in which, at the time of acquisition or construction, was properly chargeable to Capital Accounts.

(2) "Additions and Betterments Fund" shall mean the fund created and maintained by the Railroad Company in accordance with the provisions of Article VI.

(3) "Application" shall mean a letter or other instrument in writing dated and signed, not more than 30 days prior to its delivery to the Trustee, by the President or a Vice President of the Railroad Company and by either (a) the Secretary or an Assistant Secretary of the Railroad Company, or (b) the Chief Accounting Officer of the Railroad Company, setting forth briefly the nature of the matter or action covered by the application, referring to the particular provision or provisions of the Mortgage upon which the application is based,

and enumerating the resolutions, certificates, opinions, securities, cash, instruments of transfer and other papers and documents or property delivered or to be delivered to the Trustee with or in connection with such application.

(4) "Available Net Income" for any calendar year shall mean the consolidated income of the Railroad Company and its Railroad Subsidiaries for such year available for fixed charges, after deducting therefrom all fixed charges accrued during such year and all other charges properly deductible therefrom in determining consolidated income after fixed charges for such year exclusive of Contingent Interest (whether or not payable in the form of rent for leased properties) for such year and amounts required to be deposited in the Additions and Betterments Fund and in sinking funds for the retirement of Bonds and General Mortgage Bonds out of Available Net Income for such year, subject to the following:

(a) Consolidated income available for fixed charges and the deductions required to be made therefrom shall be determined in accordance with the Uniform System of Accounts applicable to such year, except that there shall be added thereto such amounts as shall have been charged to operating expenses during such year representing the service value (i.e. the ledger value less the value of salvage, if any) of any non-depreciable roadway property retired and not replaced.

(b) In determining consolidated income after fixed charges for any year any adjustment necessary to correct the income account for any prior year, whether before or after January 1, 1944, shall be made by appropriate entries and may be made either in the accounts of the current year (unless in violation of the applicable orders, instructions and regulations) or, in the discre-

Railroad Company shall be deposited and pledged with the Trustee.

(d) The Trustee shall be furnished with an Opinion of Counsel stating that (1) such sale is in accordance with the provisions of the Mortgage, (2) the Trustee is authorized under the terms of the Mortgage to comply with the request of the Railroad Company in consummation of the sale, (3) any purchase money obligations mentioned in the Certificate provided for in subdivision (b) of this Section 12 are valid obligations, secured by a valid and enforceable pledge of the Securities to be sold, free and clear of prior liens, (4) such pledge contains appropriate provision for the security and protection of the Bonds, and (5) all necessary consent or approval of all governmental authorities for the sale and acquisition of such Securities has been obtained or that no such consent or approval is necessary; and said opinion shall be accompanied by a certified copy of any such consent or approval specified in said opinion to be necessary.

(e) The Trustee shall be furnished with a Certified Resolution authorizing the sale of the Securities mentioned in the Certificate provided for in subdivision (b) of this Section 12, and requesting the release thereof from the lien of the Mortgage.

Upon receipt by the Trustee of the instruments mentioned in subdivisions (b), (d) and (e) of this Section 12, and the consideration to be received by the Railroad Company as therein stated, the Trustee shall release from the lien of the Mortgage, and deliver to or upon the written order of the Railroad Company, all Securities so to be sold at the time held by the Trustee.

SECTION 13. In case an Event of Default shall have occurred and be continuing, the Railroad Company may do any

of the things authorized to be done by it in Sections 2, 3, 5, 7, 8 and 12 of this Article X upon compliance by it with the respective provisions of said sections, if the Trustee, in the exercise of its discretion, in writing expressly authorizes or assents to such action. The Trustee shall so authorize or assent to such action if requested by the holders of a majority in principal amount of the Outstanding Bonds.

SECTION 14. All moneys received by the Trustee in respect of any Securities deposited and pledged hereunder, unless the Railroad Company shall be entitled to receive the same under the provisions of Section 2 of this Article X, shall be held, paid out or applied by it as in the case of money deposited upon the release of mortgaged property, in the manner provided in Section 7 of Article XI.

SECTION 15. The Railroad Company covenants and agrees that forthwith on demand of the Trustee it will pay, or will provide for in a manner satisfactory to the Trustee, all expenditures incurred by the Trustee under any of the provisions of this Article X, including all sums required to obtain and perfect the ownership and title to any property which the Trustee shall cause or authorize to be purchased pursuant to any provision of this Article X; and the Trustee in its discretion, without impairment of or prejudice to any of its rights under the Mortgage by reason of any default of the Railroad Company, may but shall not be obligated to advance any or all such expenses and such other moneys as may be required, or may procure such advances to be made by others, and for such advances made by the Trustee or by others at its request, with interest thereon at the rate of 4% per annum, the Trustee shall have a lien upon the mortgaged property in priority to the lien of the Bonds, except as to funds held in trust for the benefit of the holders of particular Bonds or coupons.

ARTICLE XI

POSSESSION, USE AND RELEASE OF PROPERTY

SECTION 1. While the Railroad Company shall remain in possession of the mortgaged property, it shall be entitled to manage, operate, use and enjoy all and singular the property subject to the Mortgage (except any cash or Securities deposited or pledged or required to be deposited or pledged with the Trustee under the terms of the Mortgage) and to receive, take and use the rents, incomes and profits thereof subject to the terms of the Mortgage. The subsequent provisions of this Section 1 are for the purpose of permitting the advantageous use of the property subject to the Mortgage in the operation and management of the business so as most judiciously to maintain the value of such property of the Railroad Company and the value of the security for the Bonds.

PART A. While remaining in possession of the mortgaged property, the Railroad Company shall be entitled in the usual and ordinary conduct of its business:

(a) to alter, repair, dismantle when no longer useful, replace, change and add to its buildings, roadways, trackage, Equipment, materials, supplies and any other physical property;

(b) to make any change in the location of its lines, tracks, station houses, buildings or other structures situated upon or comprising any part of the property subject to the Mortgage to other premises, if said lines, tracks, station houses, buildings, structures and the premises whereon they shall be relocated shall be or concurrently become subject to the lien of the Mortgage to the same extent and with the same priority of lien as before such relocation; and

(c) to modify the rights under, or to abandon or terminate, any trackage, terminal, operating or other contract, agree-

ment or lease, easement, franchise, license, authority or permit under which the Railroad Company may now or hereafter conduct its railroad operations; provided, in the case of any modification, that the same does not substantially impair the rights of the Railroad Company in its railroad operations, shorten the term of any leasehold on which are located Additions and Betterments which have been Bonded or Otherwise Financed, or in the judgment of the Railroad Company impair the security or interests of the Bondholders, and in the case of any abandonment or termination, that such rights are no longer required for the railroad operations of the Railroad Company, and that rights of operation, substantially equivalent as to scope and term, are otherwise owned or are concurrently to be acquired and subjected to the lien of the Mortgage to the same extent and with the same priority of lien as existed prior to the modification, abandonment or termination.

PART B. To increase operating efficiency and effect economies by elimination of unnecessary trackage or unnecessary duplication of trackage within its own transportation system which is subject to the lien of the Mortgage, and by facilitating the coordination of operations of such transportation system with operations of the transportation systems of other railroads, the Railroad Company, while remaining in possession of the mortgaged property, may, under the conditions and upon compliance with the provisions of Sections 2 and 3 of this Article XI to the extent applicable:

(a) Sell, exchange for other property, abandon, lease or otherwise dispose of any part, substantially less than all, of its lines of railroad (including any leasehold, easement, trackage right or other interest therein) subject to the lien of the Mortgage, but only if, at or prior to such sale, exchange, abandonment, lease or other disposition,

(1) there shall be filed with the Trustee a Certified Resolution determining and expressing the judgment of the Board of Directors that

- (i) such sale, exchange, abandonment, lease or other disposition will increase operating efficiency and effect economies by elimination of unnecessary trackage or unnecessary duplication of trackage within the Railroad Company's own transportation system then subject to the lien of the Mortgage, or by facilitating the coordination of operations of such transportation system with operations of the transportation systems of other railroads, and will not substantially impair the ability of the Railroad Company to handle the traffic of its transportation system, and
- (ii) that the property so to be sold, exchanged, abandoned, leased or otherwise disposed of is no longer deemed necessary or expedient in the operation of its transportation system and that the security or interests of the Bondholders will not be impaired thereby; and

(2) there shall also be filed with the Trustee, as to any part of such lines of railroad (including any leasehold, trackage right or other interest therein) desired to be sold, exchanged, abandoned, leased or otherwise disposed of, an Officers' Certificate stating and setting forth the facts relied upon to show that

- (i) such part of said lines of railroad is a branch or spur line, or is otherwise so separable from any main line serving principal points, that such sale, exchange, abandonment, lease or other disposition will not break the continuity of such main line between the principal points served thereby, or

- (ii) after said sale, exchange, abandonment, lease or other disposition there will remain at least one other route subject to the lien of the Mortgage between the principal points served by the part of such line to be sold, exchanged, abandoned, leased or otherwise disposed of, over which the traffic of its transportation system between such principal points may be handled with substantially equal facility, or
 - (iii) the Railroad Company has acquired, or upon such sale, exchange, abandonment, lease or other disposition will acquire, rights over lines of another railroad company through joint ownership, lease or trackage agreement whereby facilities will be available for general continuity of operation of its transportation system which are substantially equivalent to the facilities therefor of the lines of railroad to be sold, exchanged, abandoned, leased or otherwise disposed of, and that any such lease or trackage agreement, as evidenced by an Opinion of Counsel furnished to the Trustee, will extend at least beyond the latest date of maturity of any of the Bonds then outstanding and will not be subject to termination prior to its expiration date on account of any lien on the property covered thereby; and
- (3) there shall be pledged with the Trustee or otherwise subjected to the lien of the Mortgage, subject only to Permitted Encumbrances, in such manner as shall be deemed sufficient in an Opinion of Counsel furnished to the Trustee, any and all rights of joint ownership, leases, and trackage agreements acquired by the Railroad Company and referred to in such Officers' Certificate pursuant to the preceding clause (2) (iii).

Any lease of property of the Railroad Company made pursuant to this subdivision (a) shall be made expressly subject to immediate termination by the Trustee at any time upon the occurrence of an Event of Default and at any time during the continuance thereof, and also by the purchaser of the property so leased upon any sale thereof, whether such sale be made under the power of sale hereby conferred or under judicial proceedings.

Notwithstanding the foregoing provisions of this Part B, any line or portion of a line of railroad (including any leasehold, easement, trackage right or other interest therein) subject to the lien of the Mortgage may be released, sold, exchanged, abandoned, leased or otherwise disposed of upon compliance solely with the provisions of clause (1) of this subdivision (a), if such release, sale, exchange, abandonment, lease or other disposition is with the approval or direction of the holders of a majority of all Outstanding Bonds, such approval or direction being made and evidenced pursuant to the provisions of Article XIII and filed with the Trustee.

(b) Sell, exchange or otherwise dispose of an undivided interest in any part of any line of railroad, or in any bridge or terminal, which is subject to the lien of the Mortgage, or grant an easement over, or enter into a trackage agreement providing for the use by another railroad of, any such line of railroad, or bridge or terminal, with or without use of appurtenant shop or other operating and service facilities; and any such easement or trackage right may, but need not, extend for a longer period than the latest maturity of any of the Bonds then outstanding, and may, but need not, be subject to termination by the Trustee upon the occurrence or during the continuance of any Event of Default, or by the pur-

chaser of any property to which the same relates upon any sale thereof by virtue of the power of sale hereby conferred or under judicial proceedings; but in the case of each such sale, exchange or other disposition of an undivided interest or in case any such easement or trackage right shall extend for a longer period, as aforesaid, or is not subject to termination, as aforesaid, then at or prior thereto

(1) there shall be furnished to the Trustee an Opinion of Counsel that there has been adequately preserved to the Railroad Company the equal or prior right to the use of any such line of railroad, bridge, or terminal in which an undivided interest has been disposed of or as to which an easement or trackage right has been so granted, and to appurtenant facilities, if any, as to which a right of use has been so granted, and

(2) there shall be filed with the Trustee a Certified Resolution determining and expressing the judgment of the Board of Directors, in the case of any such sale, exchange or other disposition, that the same is advantageous to the economical and efficient operation of the business of the Railroad Company, or, in the case of any such easement or trackage right agreement, that the terms thereof are reasonable and advantageous to the economical and efficient operation of the business of the Railroad Company and, in either case, that such transaction will not substantially impair the ability of the Railroad Company to handle the traffic of its transportation system subject only to the lien of the Mortgage and Permitted Encumbrances at or between the principal points served thereby nor impair the security or interests of the Bondholders.

In case an easement over, or a trackage agreement providing for the use by another railroad of, any part of

any line of railroad or in any bridge or terminal shall be granted by the Railroad Company for a longer period than the latest maturity of any of the Bonds then outstanding or not be subject to termination by the Trustee upon the occurrence or during the continuance of any Event of Default or by the purchaser of any property to which the same relates upon any sale thereof by virtue of the power of sale hereby conferred or under judicial proceedings, the Trustee shall, at the request of the Railroad Company and upon receiving the Opinion of Counsel and Certified Resolution with respect thereto as provided in this subdivision (b), execute and deliver a certificate or consent to the granting of such easement or trackage agreement.

Any principal point which is the terminus of any line of railroad of the Railroad Company subject to the lien of the Mortgage shall cease to be a principal point if, for a period of 5 successive years after the date of the Mortgage, traffic over the line, or a portion thereof serving such point designated as provided in the following sentence, has been such that the operation by the Railroad Company of such line or such designated portion, as the case may be, has been without profit during the whole of such period. Upon filing with the Trustee of an Officers' Certificate designating any such principal point and the line serving such point, or a specified portion thereof, and showing facts with respect to traffic and operation of such line or such specified portion thereof, as the case may be, fulfilling to the satisfaction of the Trustee the requirements of this paragraph, together with a Certified Resolution expressing the judgment of the Board of Directors that the principal point described in said Certificate is in fact no longer a prin-

principal point in the operation of such lines of railroad, then said principal point shall no longer be deemed or treated as a principal point on such line for any purpose under the provisions of this Part B.

The provisions and limitations of this Part B shall govern any sale by the Railroad Company, pursuant to the provisions of Article X, of the securities of any Railroad Subsidiary owning a connecting line of railroad or bridge which forms a part of the transportation system of the Railroad Company, and any sale, exchange or other disposition by any Railroad Subsidiary, pursuant to the provisions of Article X, of property of such Railroad Subsidiary, to the same extent as though the property owned by such Railroad Subsidiary were owned by the Railroad Company.

PART C. In case any line of railroad (including any leasehold, easement, trackage right or other interest therein) subject to the lien of the Mortgage is desired to be abandoned, prior to any such abandonment there shall be furnished to the Trustee, in addition to all other requirements of this Section 1, an Opinion of Counsel stating that any requisite approval of the Interstate Commerce Commission or other governmental authority having jurisdiction in the premises has been obtained for such abandonment and said Opinion of Counsel shall be accompanied by a certified copy of the order, if any, expressed to be so required.

SECTION 2. Except as hereinafter specifically provided in this Section 2, the Railroad Company while remaining in possession of the mortgaged property may, without obtaining a release from, action by or giving notice to the Trustee and without other action or proceeding on the part of the Railroad Company hereunder:

Company, when authorized by a resolution of its Board of Directors, and the Trustee at any time and from time to time, by entering into an indenture or indentures supplemental hereto may:

(a) modify, alter, add to or eliminate any of the provisions of the Mortgage or the rights of the holders of the Bonds and coupons to be directly affected thereby or the rights and obligations of the Railroad Company, except as provided in Section 3 of this Article XIX;

(b) sanction any compromise of the rights of the holders of such Bonds against the Railroad Company or against its property whether such right shall arise under the provisions of the Mortgage or otherwise;

(c) sanction and approve any plan for the reorganization, readjustment or liquidation of the Railroad Company;

provided, however, that no such modification, alteration, addition, elimination, sanction or approval shall, without in each case the consent of the holders of all Bonds affected thereby,

(i) alter or impair the obligation of the Railroad Company to pay the principal amount of or the interest on any Bonds, or change the place or medium of payment thereof; or

(ii) permit the creation by the Railroad Company of any mortgage or other lien ranking prior to or on a parity with the lien of the Mortgage with respect to any property covered thereby except as in the Mortgage otherwise expressly provided; or

(iii) effect a reduction of the percentage required for any action authorized to be taken by the holders of the Bonds;

and provided further that no such modification, alteration, addition or elimination shall affect the rights, duties or im-

munities of the Trustee without the written consent of the Trustee.

It shall not be necessary for the consent of the Bondholders under this Section 2 to approve the particular form of any proposed supplemental indenture, but it shall be sufficient if such consent shall approve the substance thereof.

SECTION 3. With the consent (evidenced as provided in Section 1 of Article XIII) of the holders of not less than 75% in aggregate principal amount of all of the then Outstanding Bonds, and with the approval of the Interstate Commerce Commission or other public regulatory body having jurisdiction in the premises, the Railroad Company, when authorized by a resolution of its Board of Directors, and the Trustee at any time and from time to time by entering into an indenture or indentures supplemental hereto, may:

(a) extend the time or times of payment of the principal, either before or after the principal is due, of the Bonds of any or all series which at the time shall be outstanding, whether bearing fixed or contingent interest, for a period of not exceeding 20 years beyond the original date or dates designated in such Bonds for the payment of the principal thereof, or

(b) extend the time or times of payment of any fixed interest or accumulations of contingent interest, either before or after the interest is due, on the Bonds of any or all series which at the time shall be outstanding, whether bearing fixed or contingent interest, for a period of not exceeding 5 years after such interest is due, but in no event beyond the original or extended date or dates for the payment of the principal of such Bonds.

SECTION 4. Upon the request of the Railroad Company, accompanied by a Certified Resolution authorizing the execution of any supplemental indenture pursuant to the preceding

Sections of this Article XIX, and upon the filing with the Trustee of evidence of the consent of Bondholders as aforesaid, the Trustee shall join with the Railroad Company in the execution of such supplemental indenture.

SECTION 5. Upon the execution of any supplemental indenture pursuant to the provisions of this Article XIX, the Mortgage shall be and be deemed to be modified and amended in accordance therewith and the respective rights, duties and obligations under the Mortgage of the Railroad Company, the Trustee and the holders of Bonds of all series outstanding thereunder shall thereafter be determined, exercised and enforced hereunder subject in all respects to such modifications and amendments, and all the terms and conditions of any such supplemental indenture shall be and be deemed to be part of the terms and conditions of the Mortgage for any and all purposes.

SECTION 6. Bonds authenticated and delivered after the execution of any supplemental indenture pursuant to the provisions of this Article XIX may bear a notation in form approved by the Trustee as to any matter provided for in such supplemental indenture. If the Railroad Company or the Trustee shall so determine, new Bonds so modified as to conform, in the opinion of the Trustee and the Board of Directors, to any modification of the Mortgage contained in any such supplemental indenture may be prepared by the Railroad Company, authenticated by the Trustee and delivered without expense to the holders of Bonds of the same series then outstanding, upon surrender of such Bonds accompanied, in the case of coupon Bonds, by all unmatured coupons and all unpaid matured coupons which shall be appurtenant thereto, the new Bonds so issued to be of an aggregate principal amount equal to the aggregate principal amount of those so surrendered.

ARTICLE XX

MISCELLANEOUS

SECTION 1. The same officer or officers of the Railroad Company, or the same engineer, accountant or counsel or other person, as the case may be, need not certify to all the matters required to be certified under the provisions of any Article or Section of the Mortgage, but different officers, engineers, accountants, counsel or other persons may certify to different matters respectively.

SECTION 2. Each Officers' Certificate or Opinion of Counsel required to be given responsive to a specified condition or covenant provided for in the Mortgage shall include: (1) a statement that the person making such certificate or giving such opinion has read such covenant or condition; (2) a statement that, in the opinion of such person, he has made such examination or investigation as is necessary to enable him to express an informed opinion as to whether or not such covenant or condition has been complied with; and (3) a statement as to whether or not, in the opinion of such person, such condition or covenant has been complied with.

SECTION 3. Except as otherwise expressly provided herein, nothing in the Mortgage or in any of the Bonds or coupons, express or implied, is intended or shall be construed to confer upon or give to any person, firm or corporation other than the parties hereto and the holders from time to time of the Bonds or coupons issued under the Mortgage any security, right, remedy or claim, legal or equitable, under or by reason of the Mortgage, or under or by reason of any covenant, condition or stipulation herein contained; and the Mortgage and all covenants, conditions and provisions herein contained are and shall be held to be for the sole and ex-

clusive benefit of the parties hereto and the holders from time to time of the Bonds and coupons issued hereunder.

SECTION 4. The Railroad Company shall be entitled to obtain from the Trustee from time to time such certificates and statements of the latter as to matters related to the Mortgage which are within its knowledge as the Railroad Company shall find it necessary or advisable to file with the trustee of the General Mortgage for any of the purposes thereof.

SECTION 5. The Mortgage may be executed in any number of counterparts, each of which shall be an original; but such counterparts shall together constitute but one and the same instrument.

SECTION 6. The Mortgage is dated as of January 1, 1944, although executed and delivered on the date of the acknowledgment hereof by the Trustee; and the same shall be effective by order of the Court in the reorganization proceedings hereinbefore mentioned as of 12:01 A.M., Central Standard Time, on December 1, 1945.

IN WITNESS WHEREOF, CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY, the party of the first part, has caused the Mortgage to be signed and acknowledged by its President or one of its Vice Presidents, and its corporate seal to be affixed hereunto, and the same to be attested by its Secretary or its Assistant Secretary; and Continental Illinois National Bank and Trust Company of Chicago, the party of the second part, to evidence its acceptance of the trust hereby created, has caused the Mortgage to be signed and acknowledged by one of its Vice Presidents and its corporate seal to be affixed hereunto and the same to be attested by one of its Assistant Secretaries. Executed and delivered in the City

of Chicago, State of Illinois, the 4th day of December, 1945,
as of the day and year first written above.

CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC
RAILROAD COMPANY

By H. A. SCANDRETT
(CORPORATE SEAL) *President*

Attest:

T. W. BURTNESSE
Secretary

In the presence of

RAY GARRETT
WILLARD P. SCOTT

CONTINENTAL ILLINOIS NATIONAL BANK AND
TRUST COMPANY OF CHICAGO

By F. E. MUSGROVE
(CORPORATE SEAL) *Vice President*

Attest:

V. P. NELSON
Assistant Secretary

In the presence of

E. J. FRIEDRICH
PAUL B. ROBB

of further assurance, which, as set forth in the Opinion of Counsel furnished pursuant to clause (h) of this Part B, are stated to be necessary or advisable to subject to the lien of the Mortgage any property constituting Additions and Betterments included in the Officers' Certificate filed with the Trustee pursuant to clause (c) of this Part B, or, in the case of Additions and Betterments located on leaseholds, to subject the leaseholds to such lien;

(g) An Engineer's Certificate stating the fair value to the Railroad Company of the property a release of which is requested;

(h) An Opinion of Counsel to the effect that:

(1) any purchase money obligations pledged with the Trustee, or with the trustee or mortgagee of any Prior Lien as permitted by Section 4 of this Article XI, have been validly issued; that the assignments, supplemental indentures or other instruments delivered to the Trustee pursuant to clause (f) of this Part B duly assign to the Trustee subject to such lien, or otherwise render subject to the lien of the Mortgage, such purchase money obligations, or that no such instruments are required for such purpose; and that such purchase money obligations are secured by a valid lien upon the property released subject to no liens prior or equal to the lien thereof, except any liens which were Permitted Encumbrances on the property released and except any Prior Lien to which the property released was subject; and

(2) the property constituting Additions and Betterments specified in the Officers' Certificate filed with the Trustee pursuant to clause (c) of this Part B, except such as are located on leaseholds, is subject to the lien of the Mortgage or will become subject to such lien upon the delivery and recording or filing of the deeds, supplemental indentures, or instruments of further assurance, if any, specified in said Opinion of Counsel, subject to no defect in title and subject to no lien thereon prior or equal to the lien of the Mortgage, except Permitted Encumbrances, if any, and if any such property is located on any lease-

hold, as shown by the Application, that such leasehold is subject to the lien of the Mortgage, or will become subject to such lien upon the delivery and recording or filing of the deeds, supplemental indentures or instruments of further assurance, if any, specified in said Opinion of Counsel, and extends for a period of time not less than 10 years beyond the latest maturity date of any Bonds then outstanding, or that, under the terms of such leasehold, the Railroad Company has the right to be reimbursed in respect of the Cost of such Additions and Betterments or the right to remove the same upon the termination of such leasehold and that all of the Railroad Company's interest in such leasehold (except the last day of the term thereof), including any such right of reimbursement, has been pledged with the Trustee; provided that such Opinion of Counsel may recite that it is based upon certificates or opinions of officers or engineers of the Railroad Company as to any matters of fact not of public record.

SECTION 4. If, under the provisions of any Prior Lien on any part of property to be released from the Mortgage, there is required to be made with or to the trustee or mortgagee under such lien a deposit of cash or pledge of purchase money obligations in order to obtain a release therefrom of such part of the property subject to the Mortgage, the Railroad Company shall not be required to deposit or pledge with the Trustee such cash or purchase money obligations to the extent that the Railroad Company shall deposit such cash and pledge such purchase money obligations with the trustee or mortgagee of such lien.

SECTION 5. Should any part of the property subject to the lien of the Mortgage be taken by the exercise of the power of eminent domain or should any governmental body at any time exercise any right which it may have to require the sale to it or to a purchaser designated by it of any part of the property subject to the lien of the Mortgage, the Trustee, upon request

of the Railroad Company, shall release the property so taken or sold upon the Trustee's being furnished with an Opinion of Counsel to the effect that such part of the property subject to the lien of the Mortgage has been lawfully taken or sold as aforesaid. The aforesaid Opinion of Counsel shall state the amount of proceeds received or to be received for the property so taken or sold. Subject to the provisions of Section 4 of this Article XI, the proceeds of all property so taken or sold shall be deposited with the Trustee.

SECTION 6. In order to confirm, secure or clear (of record or otherwise) the prior right, charge, lien or title with respect to Equipment securing any Equipment Obligation hereafter created under reservation of right set forth in connection with the granting clauses of the Mortgage, the Trustee shall, upon compliance with the subsequent provisions of this Section 6, either confirm as to such Equipment the subordination of the lien of the Mortgage to such prior right, charge, lien or title, or release such Equipment from the lien of the Mortgage.

Prior to any such confirmation of subordination or release there shall be delivered to the Trustee a Certified Resolution requesting such action by the Trustee and an Officers' Certificate which shall describe the Equipment as to which a confirmation of subordination or a release is requested, shall describe the Equipment Obligation to be secured by a prior right, charge, lien or title thereon, shall state that such Equipment was acquired or constructed for the use of the Railroad Company within two years preceding the date of such Certificate, and shall state that none of said Equipment has theretofore been Bonded or Otherwise Financed.

There shall also be furnished to the Trustee an Opinion of Counsel and the instrument or instruments to be executed and delivered by the Trustee in order to effect the requested

and enumerating the resolutions, certificates, opinions, securities, cash, instruments of transfer and other papers and documents or property delivered or to be delivered to the Trustee with or in connection with such application.

(4) "Available Net Income" for any calendar year shall mean the consolidated income of the Railroad Company and its Railroad Subsidiaries for such year available for fixed charges, after deducting therefrom all fixed charges accrued during such year and all other charges properly deductible therefrom in determining consolidated income after fixed charges for such year exclusive of Contingent Interest (whether or not payable in the form of rent for leased properties) for such year and amounts required to be deposited in the Additions and Betterments Fund and in sinking funds for the retirement of Bonds and General Mortgage Bonds out of Available Net Income for such year, subject to the following:

(a) Consolidated income available for fixed charges and the deductions required to be made therefrom shall be determined in accordance with the Uniform System of Accounts applicable to such year, except that there shall be added thereto such amounts as shall have been charged to operating expenses during such year representing the service value (i.e. the ledger value less the value of salvage, if any) of any non-depreciable roadway property retired and not replaced.

(b) In determining consolidated income after fixed charges for any year any adjustment necessary to correct the income account for any prior year, whether before or after January 1, 1944, shall be made by appropriate entries and may be made either in the accounts of the current year (unless in violation of the applicable orders, instructions and regulations) or, in the discre-

Railroad Company shall be deposited and pledged with the Trustee.

(d) The Trustee shall be furnished with an Opinion of Counsel stating that (1) such sale is in accordance with the provisions of the Mortgage, (2) the Trustee is authorized under the terms of the Mortgage to comply with the request of the Railroad Company in consummation of the sale, (3) any purchase money obligations mentioned in the Certificate provided for in subdivision (b) of this Section 12 are valid obligations, secured by a valid and enforceable pledge of the Securities to be sold, free and clear of prior liens, (4) such pledge contains appropriate provision for the security and protection of the Bonds, and (5) all necessary consent or approval of all governmental authorities for the sale and acquisition of such Securities has been obtained or that no such consent or approval is necessary; and said opinion shall be accompanied by a certified copy of any such consent or approval specified in said opinion to be necessary.

(e) The Trustee shall be furnished with a Certified Resolution authorizing the sale of the Securities mentioned in the Certificate provided for in subdivision (b) of this Section 12, and requesting the release thereof from the lien of the Mortgage.

Upon receipt by the Trustee of the instruments mentioned in subdivisions (b), (d) and (e) of this Section 12, and the consideration to be received by the Railroad Company as therein stated, the Trustee shall release from the lien of the Mortgage, and deliver to or upon the written order of the Railroad Company, all Securities so to be sold at the time held by the Trustee.

SECTION 13. In case an Event of Default shall have occurred and be continuing, the Railroad Company may do any

of the things authorized to be done by it in Sections 2, 3, 5, 7, 8 and 12 of this Article X upon compliance by it with the respective provisions of said sections, if the Trustee, in the exercise of its discretion, in writing expressly authorizes or assents to such action. The Trustee shall so authorize or assent to such action if requested by the holders of a majority in principal amount of the Outstanding Bonds.

SECTION 14. All moneys received by the Trustee in respect of any Securities deposited and pledged hereunder, unless the Railroad Company shall be entitled to receive the same under the provisions of Section 2 of this Article X, shall be held, paid out or applied by it as in the case of money deposited upon the release of mortgaged property, in the manner provided in Section 7 of Article XI.

SECTION 15. The Railroad Company covenants and agrees that forthwith on demand of the Trustee it will pay, or will provide for in a manner satisfactory to the Trustee, all expenditures incurred by the Trustee under any of the provisions of this Article X, including all sums required to obtain and perfect the ownership and title to any property which the Trustee shall cause or authorize to be purchased pursuant to any provision of this Article X; and the Trustee in its discretion, without impairment of or prejudice to any of its rights under the Mortgage by reason of any default of the Railroad Company, may but shall not be obligated to advance any or all such expenses and such other moneys as may be required, or may procure such advances to be made by others, and for such advances made by the Trustee or by others at its request, with interest thereon at the rate of 4% per annum, the Trustee shall have a lien upon the mortgaged property in priority to the lien of the Bonds, except as to funds held in trust for the benefit of the holders of particular Bonds or coupons.

ARTICLE XI

POSSESSION, USE AND RELEASE OF PROPERTY

SECTION 1. While the Railroad Company shall remain in possession of the mortgaged property, it shall be entitled to manage, operate, use and enjoy all and singular the property subject to the Mortgage (except any cash or Securities deposited or pledged or required to be deposited or pledged with the Trustee under the terms of the Mortgage) and to receive, take and use the rents, incomes and profits thereof subject to the terms of the Mortgage. The subsequent provisions of this Section 1 are for the purpose of permitting the advantageous use of the property subject to the Mortgage in the operation and management of the business so as most judiciously to maintain the value of such property of the Railroad Company and the value of the security for the Bonds.

PART A. While remaining in possession of the mortgaged property, the Railroad Company shall be entitled in the usual and ordinary conduct of its business:

(a) to alter, repair, dismantle when no longer useful, replace, change and add to its buildings, roadways, trackage, Equipment, materials, supplies and any other physical property;

(b) to make any change in the location of its lines, tracks, station houses, buildings or other structures situated upon or comprising any part of the property subject to the Mortgage to other premises, if said lines, tracks, station houses, buildings, structures and the premises whereon they shall be relocated shall be or concurrently become subject to the lien of the Mortgage to the same extent and with the same priority of lien as before such relocation; and

(c) to modify the rights under, or to abandon or terminate, any trackage, terminal, operating or other contract, agree-

ment or lease, easement, franchise, license, authority or permit under which the Railroad Company may now or hereafter conduct its railroad operations; provided, in the case of any modification, that the same does not substantially impair the rights of the Railroad Company in its railroad operations, shorten the term of any leasehold on which are located Additions and Betterments which have been Bonded or Otherwise Financed, or in the judgment of the Railroad Company impair the security or interests of the Bondholders, and in the case of any abandonment or termination, that such rights are no longer required for the railroad operations of the Railroad Company, and that rights of operation, substantially equivalent as to scope and term, are otherwise owned or are concurrently to be acquired and subjected to the lien of the Mortgage to the same extent and with the same priority of lien as existed prior to the modification, abandonment or termination.

PART B. To increase operating efficiency and effect economies by elimination of unnecessary trackage or unnecessary duplication of trackage within its own transportation system which is subject to the lien of the Mortgage, and by facilitating the coordination of operations of such transportation system with operations of the transportation systems of other railroads, the Railroad Company, while remaining in possession of the mortgaged property, may, under the conditions and upon compliance with the provisions of Sections 2 and 3 of this Article XI to the extent applicable:

(a) Sell, exchange for other property, abandon, lease or otherwise dispose of any part, substantially less than all, of its lines of railroad (including any leasehold, easement, trackage right or other interest therein) subject to the lien of the Mortgage, but only if, at or prior to such sale, exchange, abandonment, lease or other disposition,

(1) there shall be filed with the Trustee a Certified Resolution determining and expressing the judgment of the Board of Directors that

- (i) such sale, exchange, abandonment, lease or other disposition will increase operating efficiency and effect economies by elimination of unnecessary trackage or unnecessary duplication of trackage within the Railroad Company's own transportation system then subject to the lien of the Mortgage, or by facilitating the coordination of operations of such transportation system with operations of the transportation systems of other railroads, and will not substantially impair the ability of the Railroad Company to handle the traffic of its transportation system, and
- (ii) that the property so to be sold, exchanged, abandoned, leased or otherwise disposed of is no longer deemed necessary or expedient in the operation of its transportation system and that the security or interests of the Bondholders will not be impaired thereby; and

(2) there shall also be filed with the Trustee, as to any part of such lines of railroad (including any leasehold, trackage right or other interest therein) desired to be sold, exchanged, abandoned, leased or otherwise disposed of, an Officers' Certificate stating and setting forth the facts relied upon to show that

- (i) such part of said lines of railroad is a branch or spur line, or is otherwise so separable from any main line serving principal points, that such sale, exchange, abandonment, lease or other disposition will not break the continuity of such main line between the principal points served thereby, or

- (ii) after said sale, exchange, abandonment, lease or other disposition there will remain at least one other route subject to the lien of the Mortgage between the principal points served by the part of such line to be sold, exchanged, abandoned, leased or otherwise disposed of, over which the traffic of its transportation system between such principal points may be handled with substantially equal facility, or
 - (iii) the Railroad Company has acquired, or upon such sale, exchange, abandonment, lease or other disposition will acquire, rights over lines of another railroad company through joint ownership, lease or trackage agreement whereby facilities will be available for general continuity of operation of its transportation system which are substantially equivalent to the facilities therefor of the lines of railroad to be sold, exchanged, abandoned, leased or otherwise disposed of, and that any such lease or trackage agreement, as evidenced by an Opinion of Counsel furnished to the Trustee, will extend at least beyond the latest date of maturity of any of the Bonds then outstanding and will not be subject to termination prior to its expiration date on account of any lien on the property covered thereby; and
- (3) there shall be pledged with the Trustee or otherwise subjected to the lien of the Mortgage, subject only to Permitted Encumbrances, in such manner as shall be deemed sufficient in an Opinion of Counsel furnished to the Trustee, any and all rights of joint ownership, leases, and trackage agreements acquired by the Railroad Company and referred to in such Officers' Certificate pursuant to the preceding clause (2) (iii).

Any lease of property of the Railroad Company made pursuant to this subdivision (a) shall be made expressly subject to immediate termination by the Trustee at any time upon the occurrence of an Event of Default and at any time during the continuance thereof, and also by the purchaser of the property so leased upon any sale thereof, whether such sale be made under the power of sale hereby conferred or under judicial proceedings.

Notwithstanding the foregoing provisions of this Part B, any line or portion of a line of railroad (including any leasehold, easement, trackage right or other interest therein) subject to the lien of the Mortgage may be released, sold, exchanged, abandoned, leased or otherwise disposed of upon compliance solely with the provisions of clause (1) of this subdivision (a), if such release, sale, exchange, abandonment, lease or other disposition is with the approval or direction of the holders of a majority of all Outstanding Bonds, such approval or direction being made and evidenced pursuant to the provisions of Article XIII and filed with the Trustee.

(b) Sell, exchange or otherwise dispose of an undivided interest in any part of any line of railroad, or in any bridge or terminal, which is subject to the lien of the Mortgage, or grant an easement over, or enter into a trackage agreement providing for the use by another railroad of, any such line of railroad, or bridge or terminal, with or without use of appurtenant shop or other operating and service facilities; and any such easement or trackage right may, but need not, extend for a longer period than the latest maturity of any of the Bonds then outstanding, and may, but need not, be subject to termination by the Trustee upon the occurrence or during the continuance of any Event of Default, or by the pur-

chaser of any property to which the same relates upon any sale thereof by virtue of the power of sale hereby conferred or under judicial proceedings; but in the case of each such sale, exchange or other disposition of an undivided interest or in case any such easement or trackage right shall extend for a longer period, as aforesaid, or is not subject to termination, as aforesaid, then at or prior thereto

(1) there shall be furnished to the Trustee an Opinion of Counsel that there has been adequately preserved to the Railroad Company the equal or prior right to the use of any such line of railroad, bridge, or terminal in which an undivided interest has been disposed of or as to which an easement or trackage right has been so granted, and to appurtenant facilities, if any, as to which a right of use has been so granted, and

(2) there shall be filed with the Trustee a Certified Resolution determining and expressing the judgment of the Board of Directors, in the case of any such sale, exchange or other disposition, that the same is advantageous to the economical and efficient operation of the business of the Railroad Company, or, in the case of any such easement or trackage right agreement, that the terms thereof are reasonable and advantageous to the economical and efficient operation of the business of the Railroad Company and, in either case, that such transaction will not substantially impair the ability of the Railroad Company to handle the traffic of its transportation system subject only to the lien of the Mortgage and Permitted Encumbrances at or between the principal points served thereby nor impair the security or interests of the Bondholders.

In case an easement over, or a trackage agreement providing for the use by another railroad of, any part of

any line of railroad or in any bridge or terminal shall be granted by the Railroad Company for a longer period than the latest maturity of any of the Bonds then outstanding or not be subject to termination by the Trustee upon the occurrence or during the continuance of any Event of Default or by the purchaser of any property to which the same relates upon any sale thereof by virtue of the power of sale hereby conferred or under judicial proceedings, the Trustee shall, at the request of the Railroad Company and upon receiving the Opinion of Counsel and Certified Resolution with respect thereto as provided in this subdivision (b), execute and deliver a certificate or consent to the granting of such easement or trackage agreement.

Any principal point which is the terminus of any line of railroad of the Railroad Company subject to the lien of the Mortgage shall cease to be a principal point if, for a period of 5 successive years after the date of the Mortgage, traffic over the line, or a portion thereof serving such point designated as provided in the following sentence, has been such that the operation by the Railroad Company of such line or such designated portion, as the case may be, has been without profit during the whole of such period. Upon filing with the Trustee of an Officers' Certificate designating any such principal point and the line serving such point, or a specified portion thereof, and showing facts with respect to traffic and operation of such line or such specified portion thereof, as the case may be, fulfilling to the satisfaction of the Trustee the requirements of this paragraph, together with a Certified Resolution expressing the judgment of the Board of Directors that the principal point described in said Certificate is in fact no longer a prin-

principal point in the operation of such lines of railroad, then said principal point shall no longer be deemed or treated as a principal point on such line for any purpose under the provisions of this Part B.

The provisions and limitations of this Part B shall govern any sale by the Railroad Company, pursuant to the provisions of Article X, of the securities of any Railroad Subsidiary owning a connecting line of railroad or bridge which forms a part of the transportation system of the Railroad Company, and any sale, exchange or other disposition by any Railroad Subsidiary, pursuant to the provisions of Article X, of property of such Railroad Subsidiary, to the same extent as though the property owned by such Railroad Subsidiary were owned by the Railroad Company.

PART C. In case any line of railroad (including any leasehold, easement, trackage right or other interest therein) subject to the lien of the Mortgage is desired to be abandoned, prior to any such abandonment there shall be furnished to the Trustee, in addition to all other requirements of this Section 1, an Opinion of Counsel stating that any requisite approval of the Interstate Commerce Commission or other governmental authority having jurisdiction in the premises has been obtained for such abandonment and said Opinion of Counsel shall be accompanied by a certified copy of the order, if any, expressed to be so required.

SECTION 2. Except as hereinafter specifically provided in this Section 2, the Railroad Company while remaining in possession of the mortgaged property may, without obtaining a release from, action by or giving notice to the Trustee and without other action or proceeding on the part of the Railroad Company hereunder:

Company, when authorized by a resolution of its Board of Directors, and the Trustee at any time and from time to time, by entering into an indenture or indentures supplemental hereto may:

(a) modify, alter, add to or eliminate any of the provisions of the Mortgage or the rights of the holders of the Bonds and coupons to be directly affected thereby or the rights and obligations of the Railroad Company, except as provided in Section 3 of this Article XIX;

(b) sanction any compromise of the rights of the holders of such Bonds against the Railroad Company or against its property whether such right shall arise under the provisions of the Mortgage or otherwise;

(c) sanction and approve any plan for the reorganization, readjustment or liquidation of the Railroad Company;

provided, however, that no such modification, alteration, addition, elimination, sanction or approval shall, without in each case the consent of the holders of all Bonds affected thereby,

(i) alter or impair the obligation of the Railroad Company to pay the principal amount of or the interest on any Bonds, or change the place or medium of payment thereof; or

(ii) permit the creation by the Railroad Company of any mortgage or other lien ranking prior to or on a parity with the lien of the Mortgage with respect to any property covered thereby except as in the Mortgage otherwise expressly provided; or

(iii) effect a reduction of the percentage required for any action authorized to be taken by the holders of the Bonds;

and provided further that no such modification, alteration, addition or elimination shall affect the rights, duties or im-

tro-Motive Division) and Henry A. Scandrett, Walter J. Cummings and George I. Haight, as Trustees of the Debtor's property, assigned to Seattle-First National Bank, covering the following equipment:

5 diesel-electric freight locomotives, numbered 35 to 39, both inclusive; and

5 diesel-electric passenger locomotives, numbered 16 to 20, both inclusive.

- (q) Conditional sale agreement, dated as of June 25, 1945, between Fairbanks, Morse & Company and Henry A. Scandrett, Walter J. Cummings and George I. Haight, as Trustees of the Debtor's property, assigned to Seattle-First National Bank, covering the following equipment:

10 diesel-electric switching locomotives, numbered 1803 to 1812, both inclusive.

- (r) Conditional sale agreement dated as of July 25, 1945, between The Baldwin Locomotive Works and Henry A. Scandrett, Walter J. Cummings and George I. Haight, as Trustees of the Debtor's property, assigned to Seattle-First National Bank, covering the following equipment:

4 diesel-electric switching locomotives, numbered 1688 to 1691, both inclusive.

- (s) Conditional sale agreement, dated as of August 10, 1945, between American Locomotive Company and Henry A. Scandrett, Walter J. Cummings and George I. Haight, as Trustees of the Debtor's property, assigned to Seattle-First National Bank, covering the following equipment:

6 diesel-electric switching locomotives, numbered 1657 to 1662, both inclusive.

- (t) Conditional sale agreement, dated as of September 5, 1945, between Paul B. Robb and Edward J. Friedrich, Owners, and Henry A. Scandrett, Walter J. Cummings and George I. Haight, as

Trustees of the Debtor's property, assigned to Seattle-First National Bank, covering the following equipment:

500 flat cars, numbered 65969 to 66468, both inclusive; and

25 cabooses, numbered 01950 to 01974, both inclusive,

under which Equipment Obligations the unpaid balance of outstanding obligations as of the close of business on October 31, 1945, aggregated \$23,250,837.92 in principal amount;

(2) All and singular the other matters hereinabove set forth in the granting clauses hereof and to Permitted Encumbrances as defined in Article I but only to the extent that the same shall constitute a prior lien or charge of record against any part of the mortgaged property;

BUT IN TRUST, NEVERTHELESS, upon the terms and conditions of the Mortgage, for the equal and proportionate benefit and security, except as provided in Section 1 of Article XVI, of all present and future holders of Bonds and coupons, according to their tenor, purport and effect, without preference, priority or distinction (except as provided in Section 1 of Article XVI) as to lien or otherwise; so that (except as aforesaid) each and every Bond and coupon shall have the same right, lien and privilege under the Mortgage and shall be equally and ratably secured thereby in accordance with the provisions of the Mortgage;

AND IT IS HEREBY COVENANTED AND DECLARED that all of the Bonds and coupons for interest thereon, if any, are to be issued, authenticated and delivered, and that the mortgaged property is to be held and disposed of by the Trustee, upon and subject to the following covenants, conditions, uses and trusts:

ARTICLE I

DEFINITIONS

The terms defined in this Article I (unless otherwise expressly provided or unless the context otherwise requires) shall have the respective meanings specified in this Article I for all purposes of the Mortgage.

(1) "Additions and Betterments" shall mean all physical property, or any undivided interest therein, of the Railroad Company becoming subject to the lien of the Mortgage, or located on any leasehold that is subject to the lien of the Mortgage (except the lease of the property of Chicago, Terre Haute and Southeastern Railway Company), acquired or constructed by the Railroad Company, or by the trustees of the Debtor's property in the reorganization proceedings above mentioned, after December 31, 1943, the cost or investment in which, at the time of acquisition or construction, was properly chargeable to Capital Accounts.

(2) "Additions and Betterments Fund" shall mean the fund created and maintained by the Railroad Company in accordance with the provisions of Article VI.

(3) "Application" shall mean a letter or other instrument in writing dated and signed, not more than 30 days prior to its delivery to the Trustee, by the President or a Vice President of the Railroad Company and by either (a) the Secretary or an Assistant Secretary of the Railroad Company, or (b) the Chief Accounting Officer of the Railroad Company, setting forth briefly the nature of the matter or action covered by the application, referring to the particular provision or provisions of the Mortgage upon which the application is based,

and enumerating the resolutions, certificates, opinions, securities, cash, instruments of transfer and other papers and documents or property delivered or to be delivered to the Trustee with or in connection with such application.

(4) "Available Net Income" for any calendar year shall mean the consolidated income of the Railroad Company and its Railroad Subsidiaries for such year available for fixed charges, after deducting therefrom all fixed charges accrued during such year and all other charges properly deductible therefrom in determining consolidated income after fixed charges for such year exclusive of Contingent Interest (whether or not payable in the form of rent for leased properties) for such year and amounts required to be deposited in the Additions and Betterments Fund and in sinking funds for the retirement of Bonds and General Mortgage Bonds out of Available Net Income for such year, subject to the following:

(a) Consolidated income available for fixed charges and the deductions required to be made therefrom shall be determined in accordance with the Uniform System of Accounts applicable to such year, except that there shall be added thereto such amounts as shall have been charged to operating expenses during such year representing the service value (i.e. the ledger value less the value of salvage, if any) of any non-depreciable roadway property retired and not replaced.

(b) In determining consolidated income after fixed charges for any year any adjustment necessary to correct the income account for any prior year, whether before or after January 1, 1944, shall be made by appropriate entries and may be made either in the accounts of the current year (unless in violation of the applicable orders, instructions and regulations) or, in the discre-

Railroad Company shall be deposited and pledged with the Trustee.

(d) The Trustee shall be furnished with an Opinion of Counsel stating that (1) such sale is in accordance with the provisions of the Mortgage, (2) the Trustee is authorized under the terms of the Mortgage to comply with the request of the Railroad Company in consummation of the sale, (3) any purchase money obligations mentioned in the Certificate provided for in subdivision (b) of this Section 12 are valid obligations, secured by a valid and enforceable pledge of the Securities to be sold, free and clear of prior liens, (4) such pledge contains appropriate provision for the security and protection of the Bonds, and (5) all necessary consent or approval of all governmental authorities for the sale and acquisition of such Securities has been obtained or that no such consent or approval is necessary; and said opinion shall be accompanied by a certified copy of any such consent or approval specified in said opinion to be necessary.

(e) The Trustee shall be furnished with a Certified Resolution authorizing the sale of the Securities mentioned in the Certificate provided for in subdivision (b) of this Section 12, and requesting the release thereof from the lien of the Mortgage.

Upon receipt by the Trustee of the instruments mentioned in subdivisions (b), (d) and (e) of this Section 12, and the consideration to be received by the Railroad Company as therein stated, the Trustee shall release from the lien of the Mortgage, and deliver to or upon the written order of the Railroad Company, all Securities so to be sold at the time held by the Trustee.

SECTION 13. In case an Event of Default shall have occurred and be continuing, the Railroad Company may do any

of the things authorized to be done by it in Sections 2, 3, 5, 7, 8 and 12 of this Article X upon compliance by it with the respective provisions of said sections, if the Trustee, in the exercise of its discretion, in writing expressly authorizes or assents to such action. The Trustee shall so authorize or assent to such action if requested by the holders of a majority in principal amount of the Outstanding Bonds.

SECTION 14. All moneys received by the Trustee in respect of any Securities deposited and pledged hereunder, unless the Railroad Company shall be entitled to receive the same under the provisions of Section 2 of this Article X, shall be held, paid out or applied by it as in the case of money deposited upon the release of mortgaged property, in the manner provided in Section 7 of Article XI.

SECTION 15. The Railroad Company covenants and agrees that forthwith on demand of the Trustee it will pay, or will provide for in a manner satisfactory to the Trustee, all expenditures incurred by the Trustee under any of the provisions of this Article X, including all sums required to obtain and perfect the ownership and title to any property which the Trustee shall cause or authorize to be purchased pursuant to any provision of this Article X; and the Trustee in its discretion, without impairment of or prejudice to any of its rights under the Mortgage by reason of any default of the Railroad Company, may but shall not be obligated to advance any or all such expenses and such other moneys as may be required, or may procure such advances to be made by others, and for such advances made by the Trustee or by others at its request, with interest thereon at the rate of 4% per annum, the Trustee shall have a lien upon the mortgaged property in priority to the lien of the Bonds, except as to funds held in trust for the benefit of the holders of particular Bonds or coupons.

ARTICLE XI

POSSESSION, USE AND RELEASE OF PROPERTY

SECTION 1. While the Railroad Company shall remain in possession of the mortgaged property, it shall be entitled to manage, operate, use and enjoy all and singular the property subject to the Mortgage (except any cash or Securities deposited or pledged or required to be deposited or pledged with the Trustee under the terms of the Mortgage) and to receive, take and use the rents, incomes and profits thereof subject to the terms of the Mortgage. The subsequent provisions of this Section 1 are for the purpose of permitting the advantageous use of the property subject to the Mortgage in the operation and management of the business so as most judiciously to maintain the value of such property of the Railroad Company and the value of the security for the Bonds.

PART A. While remaining in possession of the mortgaged property, the Railroad Company shall be entitled in the usual and ordinary conduct of its business:

(a) to alter, repair, dismantle when no longer useful, replace, change and add to its buildings, roadways, trackage, Equipment, materials, supplies and any other physical property;

(b) to make any change in the location of its lines, tracks, station houses, buildings or other structures situated upon or comprising any part of the property subject to the Mortgage to other premises, if said lines, tracks, station houses, buildings, structures and the premises whereon they shall be relocated shall be or concurrently become subject to the lien of the Mortgage to the same extent and with the same priority of lien as before such relocation; and

(c) to modify the rights under, or to abandon or terminate, any trackage, terminal, operating or other contract, agree-

ment or lease, easement, franchise, license, authority or permit under which the Railroad Company may now or hereafter conduct its railroad operations; provided, in the case of any modification, that the same does not substantially impair the rights of the Railroad Company in its railroad operations, shorten the term of any leasehold on which are located Additions and Betterments which have been Bonded or Otherwise Financed, or in the judgment of the Railroad Company impair the security or interests of the Bondholders, and in the case of any abandonment or termination, that such rights are no longer required for the railroad operations of the Railroad Company, and that rights of operation, substantially equivalent as to scope and term, are otherwise owned or are concurrently to be acquired and subjected to the lien of the Mortgage to the same extent and with the same priority of lien as existed prior to the modification, abandonment or termination.

PART B. To increase operating efficiency and effect economies by elimination of unnecessary trackage or unnecessary duplication of trackage within its own transportation system which is subject to the lien of the Mortgage, and by facilitating the coordination of operations of such transportation system with operations of the transportation systems of other railroads, the Railroad Company, while remaining in possession of the mortgaged property, may, under the conditions and upon compliance with the provisions of Sections 2 and 3 of this Article XI to the extent applicable:

(a) Sell, exchange for other property, abandon, lease or otherwise dispose of any part, substantially less than all, of its lines of railroad (including any leasehold, easement, trackage right or other interest therein) subject to the lien of the Mortgage, but only if, at or prior to such sale, exchange, abandonment, lease or other disposition,

(1) there shall be filed with the Trustee a Certified Resolution determining and expressing the judgment of the Board of Directors that

- (i) such sale, exchange, abandonment, lease or other disposition will increase operating efficiency and effect economies by elimination of unnecessary trackage or unnecessary duplication of trackage within the Railroad Company's own transportation system then subject to the lien of the Mortgage, or by facilitating the coordination of operations of such transportation system with operations of the transportation systems of other railroads, and will not substantially impair the ability of the Railroad Company to handle the traffic of its transportation system, and
- (ii) that the property so to be sold, exchanged, abandoned, leased or otherwise disposed of is no longer deemed necessary or expedient in the operation of its transportation system and that the security or interests of the Bondholders will not be impaired thereby; and

(2) there shall also be filed with the Trustee, as to any part of such lines of railroad (including any leasehold, trackage right or other interest therein) desired to be sold, exchanged, abandoned, leased or otherwise disposed of, an Officers' Certificate stating and setting forth the facts relied upon to show that

- (i) such part of said lines of railroad is a branch or spur line, or is otherwise so separable from any main line serving principal points, that such sale, exchange, abandonment, lease or other disposition will not break the continuity of such main line between the principal points served thereby, or

- (ii) after said sale, exchange, abandonment, lease or other disposition there will remain at least one other route subject to the lien of the Mortgage between the principal points served by the part of such line to be sold, exchanged, abandoned, leased or otherwise disposed of, over which the traffic of its transportation system between such principal points may be handled with substantially equal facility, or
 - (iii) the Railroad Company has acquired, or upon such sale, exchange, abandonment, lease or other disposition will acquire, rights over lines of another railroad company through joint ownership, lease or trackage agreement whereby facilities will be available for general continuity of operation of its transportation system which are substantially equivalent to the facilities therefor of the lines of railroad to be sold, exchanged, abandoned, leased or otherwise disposed of, and that any such lease or trackage agreement, as evidenced by an Opinion of Counsel furnished to the Trustee, will extend at least beyond the latest date of maturity of any of the Bonds then outstanding and will not be subject to termination prior to its expiration date on account of any lien on the property covered thereby; and
- (3) there shall be pledged with the Trustee or otherwise subjected to the lien of the Mortgage, subject only to Permitted Encumbrances, in such manner as shall be deemed sufficient in an Opinion of Counsel furnished to the Trustee, any and all rights of joint ownership, leases, and trackage agreements acquired by the Railroad Company and referred to in such Officers' Certificate pursuant to the preceding clause (2) (iii).

Any lease of property of the Railroad Company made pursuant to this subdivision (a) shall be made expressly subject to immediate termination by the Trustee at any time upon the occurrence of an Event of Default and at any time during the continuance thereof, and also by the purchaser of the property so leased upon any sale thereof, whether such sale be made under the power of sale hereby conferred or under judicial proceedings.

Notwithstanding the foregoing provisions of this Part B, any line or portion of a line of railroad (including any leasehold, easement, trackage right or other interest therein) subject to the lien of the Mortgage may be released, sold, exchanged, abandoned, leased or otherwise disposed of upon compliance solely with the provisions of clause (1) of this subdivision (a), if such release, sale, exchange, abandonment, lease or other disposition is with the approval or direction of the holders of a majority of all Outstanding Bonds, such approval or direction being made and evidenced pursuant to the provisions of Article XIII and filed with the Trustee.

(b) Sell, exchange or otherwise dispose of an undivided interest in any part of any line of railroad, or in any bridge or terminal, which is subject to the lien of the Mortgage, or grant an easement over, or enter into a trackage agreement providing for the use by another railroad of, any such line of railroad, or bridge or terminal, with or without use of appurtenant shop or other operating and service facilities; and any such easement or trackage right may, but need not, extend for a longer period than the latest maturity of any of the Bonds then outstanding, and may, but need not, be subject to termination by the Trustee upon the occurrence or during the continuance of any Event of Default, or by the pur-

chaser of any property to which the same relates upon any sale thereof by virtue of the power of sale hereby conferred or under judicial proceedings; but in the case of each such sale, exchange or other disposition of an undivided interest or in case any such easement or trackage right shall extend for a longer period, as aforesaid, or is not subject to termination, as aforesaid, then at or prior thereto

(1) there shall be furnished to the Trustee an Opinion of Counsel that there has been adequately preserved to the Railroad Company the equal or prior right to the use of any such line of railroad, bridge, or terminal in which an undivided interest has been disposed of or as to which an easement or trackage right has been so granted, and to appurtenant facilities, if any, as to which a right of use has been so granted, and

(2) there shall be filed with the Trustee a Certified Resolution determining and expressing the judgment of the Board of Directors, in the case of any such sale, exchange or other disposition, that the same is advantageous to the economical and efficient operation of the business of the Railroad Company, or, in the case of any such easement or trackage right agreement, that the terms thereof are reasonable and advantageous to the economical and efficient operation of the business of the Railroad Company and, in either case, that such transaction will not substantially impair the ability of the Railroad Company to handle the traffic of its transportation system subject only to the lien of the Mortgage and Permitted Encumbrances at or between the principal points served thereby nor impair the security or interests of the Bondholders.

In case an easement over, or a trackage agreement providing for the use by another railroad of, any part of

any line of railroad or in any bridge or terminal shall be granted by the Railroad Company for a longer period than the latest maturity of any of the Bonds then outstanding or not be subject to termination by the Trustee upon the occurrence or during the continuance of any Event of Default or by the purchaser of any property to which the same relates upon any sale thereof by virtue of the power of sale hereby conferred or under judicial proceedings, the Trustee shall, at the request of the Railroad Company and upon receiving the Opinion of Counsel and Certified Resolution with respect thereto as provided in this subdivision (b), execute and deliver a certificate or consent to the granting of such easement or trackage agreement.

Any principal point which is the terminus of any line of railroad of the Railroad Company subject to the lien of the Mortgage shall cease to be a principal point if, for a period of 5 successive years after the date of the Mortgage, traffic over the line, or a portion thereof serving such point designated as provided in the following sentence, has been such that the operation by the Railroad Company of such line or such designated portion, as the case may be, has been without profit during the whole of such period. Upon filing with the Trustee of an Officers' Certificate designating any such principal point and the line serving such point, or a specified portion thereof, and showing facts with respect to traffic and operation of such line or such specified portion thereof, as the case may be, fulfilling to the satisfaction of the Trustee the requirements of this paragraph, together with a Certified Resolution expressing the judgment of the Board of Directors that the principal point described in said Certificate is in fact no longer a prin-

principal point in the operation of such lines of railroad, then said principal point shall no longer be deemed or treated as a principal point on such line for any purpose under the provisions of this Part B.

The provisions and limitations of this Part B shall govern any sale by the Railroad Company, pursuant to the provisions of Article X, of the securities of any Railroad Subsidiary owning a connecting line of railroad or bridge which forms a part of the transportation system of the Railroad Company, and any sale, exchange or other disposition by any Railroad Subsidiary, pursuant to the provisions of Article X, of property of such Railroad Subsidiary, to the same extent as though the property owned by such Railroad Subsidiary were owned by the Railroad Company.

PART C. In case any line of railroad (including any leasehold, easement, trackage right or other interest therein) subject to the lien of the Mortgage is desired to be abandoned, prior to any such abandonment there shall be furnished to the Trustee, in addition to all other requirements of this Section 1, an Opinion of Counsel stating that any requisite approval of the Interstate Commerce Commission or other governmental authority having jurisdiction in the premises has been obtained for such abandonment and said Opinion of Counsel shall be accompanied by a certified copy of the order, if any, expressed to be so required.

SECTION 2. Except as hereinafter specifically provided in this Section 2, the Railroad Company while remaining in possession of the mortgaged property may, without obtaining a release from, action by or giving notice to the Trustee and without other action or proceeding on the part of the Railroad Company hereunder:

Company, when authorized by a resolution of its Board of Directors, and the Trustee at any time and from time to time, by entering into an indenture or indentures supplemental hereto may:

(a) modify, alter, add to or eliminate any of the provisions of the Mortgage or the rights of the holders of the Bonds and coupons to be directly affected thereby or the rights and obligations of the Railroad Company, except as provided in Section 3 of this Article XIX;

(b) sanction any compromise of the rights of the holders of such Bonds against the Railroad Company or against its property whether such right shall arise under the provisions of the Mortgage or otherwise;

(c) sanction and approve any plan for the reorganization, readjustment or liquidation of the Railroad Company;

provided, however, that no such modification, alteration, addition, elimination, sanction or approval shall, without in each case the consent of the holders of all Bonds affected thereby,

(i) alter or impair the obligation of the Railroad Company to pay the principal amount of or the interest on any Bonds, or change the place or medium of payment thereof; or

(ii) permit the creation by the Railroad Company of any mortgage or other lien ranking prior to or on a parity with the lien of the Mortgage with respect to any property covered thereby except as in the Mortgage otherwise expressly provided; or

(iii) effect a reduction of the percentage required for any action authorized to be taken by the holders of the Bonds;

and provided further that no such modification, alteration, addition or elimination shall affect the rights, duties or im-

munities of the Trustee without the written consent of the Trustee.

It shall not be necessary for the consent of the Bondholders under this Section 2 to approve the particular form of any proposed supplemental indenture, but it shall be sufficient if such consent shall approve the substance thereof.

SECTION 3. With the consent (evidenced as provided in Section 1 of Article XIII) of the holders of not less than 75% in aggregate principal amount of all of the then Outstanding Bonds, and with the approval of the Interstate Commerce Commission or other public regulatory body having jurisdiction in the premises, the Railroad Company, when authorized by a resolution of its Board of Directors, and the Trustee at any time and from time to time by entering into an indenture or indentures supplemental hereto, may:

(a) extend the time or times of payment of the principal, either before or after the principal is due, of the Bonds of any or all series which at the time shall be outstanding, whether bearing fixed or contingent interest, for a period of not exceeding 20 years beyond the original date or dates designated in such Bonds for the payment of the principal thereof, or

(b) extend the time or times of payment of any fixed interest or accumulations of contingent interest, either before or after the interest is due, on the Bonds of any or all series which at the time shall be outstanding, whether bearing fixed or contingent interest, for a period of not exceeding 5 years after such interest is due, but in no event beyond the original or extended date or dates for the payment of the principal of such Bonds.

SECTION 4. Upon the request of the Railroad Company, accompanied by a Certified Resolution authorizing the execution of any supplemental indenture pursuant to the preceding

Sections of this Article XIX, and upon the filing with the Trustee of evidence of the consent of Bondholders as aforesaid, the Trustee shall join with the Railroad Company in the execution of such supplemental indenture.

SECTION 5. Upon the execution of any supplemental indenture pursuant to the provisions of this Article XIX, the Mortgage shall be and be deemed to be modified and amended in accordance therewith and the respective rights, duties and obligations under the Mortgage of the Railroad Company, the Trustee and the holders of Bonds of all series outstanding thereunder shall thereafter be determined, exercised and enforced hereunder subject in all respects to such modifications and amendments, and all the terms and conditions of any such supplemental indenture shall be and be deemed to be part of the terms and conditions of the Mortgage for any and all purposes.

SECTION 6. Bonds authenticated and delivered after the execution of any supplemental indenture pursuant to the provisions of this Article XIX may bear a notation in form approved by the Trustee as to any matter provided for in such supplemental indenture. If the Railroad Company or the Trustee shall so determine, new Bonds so modified as to conform, in the opinion of the Trustee and the Board of Directors, to any modification of the Mortgage contained in any such supplemental indenture may be prepared by the Railroad Company, authenticated by the Trustee and delivered without expense to the holders of Bonds of the same series then outstanding, upon surrender of such Bonds accompanied, in the case of coupon Bonds, by all unmatured coupons and all unpaid matured coupons which shall be appurtenant thereto, the new Bonds so issued to be of an aggregate principal amount equal to the aggregate principal amount of those so surrendered.

ARTICLE XX

MISCELLANEOUS

SECTION 1. The same officer or officers of the Railroad Company, or the same engineer, accountant or counsel or other person, as the case may be, need not certify to all the matters required to be certified under the provisions of any Article or Section of the Mortgage, but different officers, engineers, accountants, counsel or other persons may certify to different matters respectively.

SECTION 2. Each Officers' Certificate or Opinion of Counsel required to be given responsive to a specified condition or covenant provided for in the Mortgage shall include: (1) a statement that the person making such certificate or giving such opinion has read such covenant or condition; (2) a statement that, in the opinion of such person, he has made such examination or investigation as is necessary to enable him to express an informed opinion as to whether or not such covenant or condition has been complied with; and (3) a statement as to whether or not, in the opinion of such person, such condition or covenant has been complied with.

SECTION 3. Except as otherwise expressly provided herein, nothing in the Mortgage or in any of the Bonds or coupons, express or implied, is intended or shall be construed to confer upon or give to any person, firm or corporation other than the parties hereto and the holders from time to time of the Bonds or coupons issued under the Mortgage any security, right, remedy or claim, legal or equitable, under or by reason of the Mortgage, or under or by reason of any covenant, condition or stipulation herein contained; and the Mortgage and all covenants, conditions and provisions herein contained are and shall be held to be for the sole and ex-

clusive benefit of the parties hereto and the holders from time to time of the Bonds and coupons issued hereunder.

SECTION 4. The Railroad Company shall be entitled to obtain from the Trustee from time to time such certificates and statements of the latter as to matters related to the Mortgage which are within its knowledge as the Railroad Company shall find it necessary or advisable to file with the trustee of the General Mortgage for any of the purposes thereof.

SECTION 5. The Mortgage may be executed in any number of counterparts, each of which shall be an original; but such counterparts shall together constitute but one and the same instrument.

SECTION 6. The Mortgage is dated as of January 1, 1944, although executed and delivered on the date of the acknowledgment hereof by the Trustee; and the same shall be effective by order of the Court in the reorganization proceedings hereinbefore mentioned as of 12:01 A.M., Central Standard Time, on December 1, 1945.

IN WITNESS WHEREOF, CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY, the party of the first part, has caused the Mortgage to be signed and acknowledged by its President or one of its Vice Presidents, and its corporate seal to be affixed hereunto, and the same to be attested by its Secretary or its Assistant Secretary; and Continental Illinois National Bank and Trust Company of Chicago, the party of the second part, to evidence its acceptance of the trust hereby created, has caused the Mortgage to be signed and acknowledged by one of its Vice Presidents and its corporate seal to be affixed hereunto and the same to be attested by one of its Assistant Secretaries. Executed and delivered in the City

of Chicago, State of Illinois, the 4th day of December, 1945,
as of the day and year first written above.

CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC
RAILROAD COMPANY

By H. A. SCANDRETT
(CORPORATE SEAL) *President*

Attest:

T. W. BURTNESSE
Secretary

In the presence of

RAY GARRETT
WILLARD P. SCOTT

CONTINENTAL ILLINOIS NATIONAL BANK AND
TRUST COMPANY OF CHICAGO

By F. E. MUSGROVE
(CORPORATE SEAL) *Vice President*

Attest:

V. P. NELSON
Assistant Secretary

In the presence of

E. J. FRIEDRICH
PAUL B. ROBB

of further assurance, which, as set forth in the Opinion of Counsel furnished pursuant to clause (h) of this Part B, are stated to be necessary or advisable to subject to the lien of the Mortgage any property constituting Additions and Betterments included in the Officers' Certificate filed with the Trustee pursuant to clause (c) of this Part B, or, in the case of Additions and Betterments located on leaseholds, to subject the leaseholds to such lien;

(g) An Engineer's Certificate stating the fair value to the Railroad Company of the property a release of which is requested;

(h) An Opinion of Counsel to the effect that:

(1) any purchase money obligations pledged with the Trustee, or with the trustee or mortgagee of any Prior Lien as permitted by Section 4 of this Article XI, have been validly issued; that the assignments, supplemental indentures or other instruments delivered to the Trustee pursuant to clause (f) of this Part B duly assign to the Trustee subject to such lien, or otherwise render subject to the lien of the Mortgage, such purchase money obligations, or that no such instruments are required for such purpose; and that such purchase money obligations are secured by a valid lien upon the property released subject to no liens prior or equal to the lien thereof, except any liens which were Permitted Encumbrances on the property released and except any Prior Lien to which the property released was subject; and

(2) the property constituting Additions and Betterments specified in the Officers' Certificate filed with the Trustee pursuant to clause (c) of this Part B, except such as are located on leaseholds, is subject to the lien of the Mortgage or will become subject to such lien upon the delivery and recording or filing of the deeds, supplemental indentures, or instruments of further assurance, if any, specified in said Opinion of Counsel, subject to no defect in title and subject to no lien thereon prior or equal to the lien of the Mortgage, except Permitted Encumbrances, if any, and if any such property is located on any lease-

hold, as shown by the Application, that such leasehold is subject to the lien of the Mortgage, or will become subject to such lien upon the delivery and recording or filing of the deeds, supplemental indentures or instruments of further assurance, if any, specified in said Opinion of Counsel, and extends for a period of time not less than 10 years beyond the latest maturity date of any Bonds then outstanding, or that, under the terms of such leasehold, the Railroad Company has the right to be reimbursed in respect of the Cost of such Additions and Betterments or the right to remove the same upon the termination of such leasehold and that all of the Railroad Company's interest in such leasehold (except the last day of the term thereof), including any such right of reimbursement, has been pledged with the Trustee; provided that such Opinion of Counsel may recite that it is based upon certificates or opinions of officers or engineers of the Railroad Company as to any matters of fact not of public record.

SECTION 4. If, under the provisions of any Prior Lien on any part of property to be released from the Mortgage, there is required to be made with or to the trustee or mortgagee under such lien a deposit of cash or pledge of purchase money obligations in order to obtain a release therefrom of such part of the property subject to the Mortgage, the Railroad Company shall not be required to deposit or pledge with the Trustee such cash or purchase money obligations to the extent that the Railroad Company shall deposit such cash and pledge such purchase money obligations with the trustee or mortgagee of such lien.

SECTION 5. Should any part of the property subject to the lien of the Mortgage be taken by the exercise of the power of eminent domain or should any governmental body at any time exercise any right which it may have to require the sale to it or to a purchaser designated by it of any part of the property subject to the lien of the Mortgage, the Trustee, upon request

of the Railroad Company, shall release the property so taken or sold upon the Trustee's being furnished with an Opinion of Counsel to the effect that such part of the property subject to the lien of the Mortgage has been lawfully taken or sold as aforesaid. The aforesaid Opinion of Counsel shall state the amount of proceeds received or to be received for the property so taken or sold. Subject to the provisions of Section 4 of this Article XI, the proceeds of all property so taken or sold shall be deposited with the Trustee.

SECTION 6. In order to confirm, secure or clear (of record or otherwise) the prior right, charge, lien or title with respect to Equipment securing any Equipment Obligation hereafter created under reservation of right set forth in connection with the granting clauses of the Mortgage, the Trustee shall, upon compliance with the subsequent provisions of this Section 6, either confirm as to such Equipment the subordination of the lien of the Mortgage to such prior right, charge, lien or title, or release such Equipment from the lien of the Mortgage.

Prior to any such confirmation of subordination or release there shall be delivered to the Trustee a Certified Resolution requesting such action by the Trustee and an Officers' Certificate which shall describe the Equipment as to which a confirmation of subordination or a release is requested, shall describe the Equipment Obligation to be secured by a prior right, charge, lien or title thereon, shall state that such Equipment was acquired or constructed for the use of the Railroad Company within two years preceding the date of such Certificate, and shall state that none of said Equipment has theretofore been Bonded or Otherwise Financed.

There shall also be furnished to the Trustee an Opinion of Counsel and the instrument or instruments to be executed and delivered by the Trustee in order to effect the requested

confirmation of subordination or release. Such Opinion of Counsel shall approve the form of the instrument or instruments furnished therewith and shall express the opinion that, after the execution and delivery by the Trustee of such confirmation of subordination or release, the lien of the Mortgage will continue to attach to all right, title or interest of the Railroad Company then or thereafter existing with respect to the Equipment described in the Certificate, subject only to the prior right, charge, lien or title of the Equipment Obligations therein described, and to Permitted Encumbrances; but such expression of opinion may be predicated upon the execution and delivery of other instruments in addition to those specified above, or the taking of other action, in which case the Railroad Company shall cause such other instruments to be executed and delivered or such other action to be taken.

SECTION 7. Unless an Event of Default shall have occurred and be continuing, all moneys held by the Trustee under this Article XI, at the option of the Railroad Company:

(a) May be withdrawn by the Railroad Company upon its written Application, accompanied by a Certified Resolution authorizing such Application, in an amount equal to the Gross Expenditures with respect to Additions and Betterments acquired or constructed after the date of the deposit of the moneys desired to be withdrawn, provided such Expenditures have not been Bonded or Otherwise Financed; but only upon delivery to the Trustee of an Officers' Certificate, dated not more than 30 days prior to the delivery thereof, containing a description in reasonable detail of the property constituting the Additions and Betterments represented by such Gross Expenditures and a statement of the amount of such Gross Expenditures, that no part of such Gross Expenditures has theretofore been Bonded or Otherwise Financed, and that no Event of Default has occurred and is continuing. There shall be delivered to the Trustee, accom-

panying said Application, deeds and instruments of transfer and an Opinion of Counsel of the character required in clauses (f) and (h) (2) of Part B of Section 3 of this Article XI.

(b) May be withdrawn by the Railroad Company upon its written Application, accompanied by a Certified Resolution authorizing such Application, in an amount equal to 133⅓% of the principal amount of Bonds to the authentication and delivery of which the Railroad Company would then be entitled on account of Bondable Expenditures under the provisions of Section 2 of Article III. On any such Application the Railroad Company shall comply with all applicable provisions of Section 2 of Article III relating to the authentication and delivery of Bonds and the provisions of Section 8 of Article III, except that it shall not be required to comply with any of the provisions of clause (f) of Section 2 of Article III or Section 8 of Article III other than clauses (d) (4) and (e) of said Section 8. Any withdrawal of cash under this paragraph shall be in lieu of the right of the Railroad Company to the authentication and delivery of Bonds on account of such Bondable Expenditures.

(c) May be withdrawn by the Railroad Company upon its written Application in an amount not exceeding the principal amount or the cost (exclusive of interest) to the Railroad Company, whichever is less, of any Bonds (not theretofore Bonded, or acquired, retired, cancelled or paid through the operation of any sinking fund or analogous fund established pursuant to the Mortgage or pursuant to the General Mortgage) theretofore authenticated and delivered under the Mortgage which shall have been cancelled or surrendered to the Trustee for cancellation, but only upon delivery to the Trustee of

(1) an Officers' Certificate describing the Bonds the cancellation or surrender for cancellation of which forms the basis for the proposed withdrawal of cash, stating

the cost thereof (exclusive of interest) to the Railroad Company, and stating that said Bonds have theretofore been duly issued and outstanding and reacquired by the Railroad Company, that none of said Bonds has theretofore been Bonded, or acquired, retired, cancelled or paid through the operation of any sinking fund or analogous fund established pursuant to the Mortgage or pursuant to the General Mortgage, and that no Event of Default has occurred and is continuing; and

(2) the particular Bonds together with all appropriate coupons, if any, appertaining thereto.

(d) May be applied, upon the written request of the Railroad Company, signed by its President or a Vice President, accompanied by a Certified Resolution authorizing such request, to the payment at maturity or to the redemption of Bonds then outstanding of any series determined by said Resolution. Any such request of the Railroad Company for the application of moneys pursuant to this clause (d) shall also be accompanied by an Officers' Certificate stating that no Event of Default has occurred and is continuing.

The Railroad Company covenants that whenever any redemption of Bonds shall be applied for under the provisions of clause (d) of this Section 7, it will take all action necessary, or authorize the Trustee to take all action necessary, to redeem such Bonds at the earliest applicable redemption date, and will deposit with Trustee on or before the date fixed for redemption additional moneys sufficient to pay the premium and all accrued and unpaid interest on the Bonds so to be redeemed to the date so fixed for redemption.

If and when the Railroad Company shall so request by Certified Resolution filed with the Trustee, provided no Event of Default shall have occurred and then be continuing, any moneys at the time held under this Article XI by the Trustee shall be invested by it in such direct obligations of the United States of America maturing within 2 years as shall be speci-

of the things authorized to be done by it in Sections 2, 3, 5, 7, 8 and 12 of this Article X upon compliance by it with the respective provisions of said sections, if the Trustee, in the exercise of its discretion, in writing expressly authorizes or assents to such action. The Trustee shall so authorize or assent to such action if requested by the holders of a majority in principal amount of the Outstanding Bonds.

SECTION 14. All moneys received by the Trustee in respect of any Securities deposited and pledged hereunder, unless the Railroad Company shall be entitled to receive the same under the provisions of Section 2 of this Article X, shall be held, paid out or applied by it as in the case of money deposited upon the release of mortgaged property, in the manner provided in Section 7 of Article XI.

SECTION 15. The Railroad Company covenants and agrees that forthwith on demand of the Trustee it will pay, or will provide for in a manner satisfactory to the Trustee, all expenditures incurred by the Trustee under any of the provisions of this Article X, including all sums required to obtain and perfect the ownership and title to any property which the Trustee shall cause or authorize to be purchased pursuant to any provision of this Article X; and the Trustee in its discretion, without impairment of or prejudice to any of its rights under the Mortgage by reason of any default of the Railroad Company, may but shall not be obligated to advance any or all such expenses and such other moneys as may be required, or may procure such advances to be made by others, and for such advances made by the Trustee or by others at its request, with interest thereon at the rate of 4% per annum, the Trustee shall have a lien upon the mortgaged property in priority to the lien of the Bonds, except as to funds held in trust for the benefit of the holders of particular Bonds or coupons.

ARTICLE XI

POSSESSION, USE AND RELEASE OF PROPERTY

SECTION 1. While the Railroad Company shall remain in possession of the mortgaged property, it shall be entitled to manage, operate, use and enjoy all and singular the property subject to the Mortgage (except any cash or Securities deposited or pledged or required to be deposited or pledged with the Trustee under the terms of the Mortgage) and to receive, take and use the rents, incomes and profits thereof subject to the terms of the Mortgage. The subsequent provisions of this Section 1 are for the purpose of permitting the advantageous use of the property subject to the Mortgage in the operation and management of the business so as most judiciously to maintain the value of such property of the Railroad Company and the value of the security for the Bonds.

PART A. While remaining in possession of the mortgaged property, the Railroad Company shall be entitled in the usual and ordinary conduct of its business:

(a) to alter, repair, dismantle when no longer useful, replace, change and add to its buildings, roadways, trackage, Equipment, materials, supplies and any other physical property;

(b) to make any change in the location of its lines, tracks, station houses, buildings or other structures situated upon or comprising any part of the property subject to the Mortgage to other premises, if said lines, tracks, station houses, buildings, structures and the premises whereon they shall be relocated shall be or concurrently become subject to the lien of the Mortgage to the same extent and with the same priority of lien as before such relocation; and

(c) to modify the rights under, or to abandon or terminate, any trackage, terminal, operating or other contract, agree-

ment or lease, easement, franchise, license, authority or permit under which the Railroad Company may now or hereafter conduct its railroad operations; provided, in the case of any modification, that the same does not substantially impair the rights of the Railroad Company in its railroad operations, shorten the term of any leasehold on which are located Additions and Betterments which have been Bonded or Otherwise Financed, or in the judgment of the Railroad Company impair the security or interests of the Bondholders, and in the case of any abandonment or termination, that such rights are no longer required for the railroad operations of the Railroad Company, and that rights of operation, substantially equivalent as to scope and term, are otherwise owned or are concurrently to be acquired and subjected to the lien of the Mortgage to the same extent and with the same priority of lien as existed prior to the modification, abandonment or termination.

PART B. To increase operating efficiency and effect economies by elimination of unnecessary trackage or unnecessary duplication of trackage within its own transportation system which is subject to the lien of the Mortgage, and by facilitating the coordination of operations of such transportation system with operations of the transportation systems of other railroads, the Railroad Company, while remaining in possession of the mortgaged property, may, under the conditions and upon compliance with the provisions of Sections 2 and 3 of this Article XI to the extent applicable:

(a) Sell, exchange for other property, abandon, lease or otherwise dispose of any part, substantially less than all, of its lines of railroad (including any leasehold, easement, trackage right or other interest therein) subject to the lien of the Mortgage, but only if, at or prior to such sale, exchange, abandonment, lease or other disposition,

(1) there shall be filed with the Trustee a Certified Resolution determining and expressing the judgment of the Board of Directors that

- (i) such sale, exchange, abandonment, lease or other disposition will increase operating efficiency and effect economies by elimination of unnecessary trackage or unnecessary duplication of trackage within the Railroad Company's own transportation system then subject to the lien of the Mortgage, or by facilitating the coordination of operations of such transportation system with operations of the transportation systems of other railroads, and will not substantially impair the ability of the Railroad Company to handle the traffic of its transportation system, and
- (ii) that the property so to be sold, exchanged, abandoned, leased or otherwise disposed of is no longer deemed necessary or expedient in the operation of its transportation system and that the security or interests of the Bondholders will not be impaired thereby; and

(2) there shall also be filed with the Trustee, as to any part of such lines of railroad (including any leasehold, trackage right or other interest therein) desired to be sold, exchanged, abandoned, leased or otherwise disposed of, an Officers' Certificate stating and setting forth the facts relied upon to show that

- (i) such part of said lines of railroad is a branch or spur line, or is otherwise so separable from any main line serving principal points, that such sale, exchange, abandonment, lease or other disposition will not break the continuity of such main line between the principal points served thereby, or

- (ii) after said sale, exchange, abandonment, lease or other disposition there will remain at least one other route subject to the lien of the Mortgage between the principal points served by the part of such line to be sold, exchanged, abandoned, leased or otherwise disposed of, over which the traffic of its transportation system between such principal points may be handled with substantially equal facility, or
 - (iii) the Railroad Company has acquired, or upon such sale, exchange, abandonment, lease or other disposition will acquire, rights over lines of another railroad company through joint ownership, lease or trackage agreement whereby facilities will be available for general continuity of operation of its transportation system which are substantially equivalent to the facilities therefor of the lines of railroad to be sold, exchanged, abandoned, leased or otherwise disposed of, and that any such lease or trackage agreement, as evidenced by an Opinion of Counsel furnished to the Trustee, will extend at least beyond the latest date of maturity of any of the Bonds then outstanding and will not be subject to termination prior to its expiration date on account of any lien on the property covered thereby; and
- (3) there shall be pledged with the Trustee or otherwise subjected to the lien of the Mortgage, subject only to Permitted Encumbrances, in such manner as shall be deemed sufficient in an Opinion of Counsel furnished to the Trustee, any and all rights of joint ownership, leases, and trackage agreements acquired by the Railroad Company and referred to in such Officers' Certificate pursuant to the preceding clause (2) (iii).

Any lease of property of the Railroad Company made pursuant to this subdivision (a) shall be made expressly subject to immediate termination by the Trustee at any time upon the occurrence of an Event of Default and at any time during the continuance thereof, and also by the purchaser of the property so leased upon any sale thereof, whether such sale be made under the power of sale hereby conferred or under judicial proceedings.

Notwithstanding the foregoing provisions of this Part B, any line or portion of a line of railroad (including any leasehold, easement, trackage right or other interest therein) subject to the lien of the Mortgage may be released, sold, exchanged, abandoned, leased or otherwise disposed of upon compliance solely with the provisions of clause (1) of this subdivision (a), if such release, sale, exchange, abandonment, lease or other disposition is with the approval or direction of the holders of a majority of all Outstanding Bonds, such approval or direction being made and evidenced pursuant to the provisions of Article XIII and filed with the Trustee.

(b) Sell, exchange or otherwise dispose of an undivided interest in any part of any line of railroad, or in any bridge or terminal, which is subject to the lien of the Mortgage, or grant an easement over, or enter into a trackage agreement providing for the use by another railroad of, any such line of railroad, or bridge or terminal, with or without use of appurtenant shop or other operating and service facilities; and any such easement or trackage right may, but need not, extend for a longer period than the latest maturity of any of the Bonds then outstanding, and may, but need not, be subject to termination by the Trustee upon the occurrence or during the continuance of any Event of Default, or by the pur-

chaser of any property to which the same relates upon any sale thereof by virtue of the power of sale hereby conferred or under judicial proceedings; but in the case of each such sale, exchange or other disposition of an undivided interest or in case any such easement or trackage right shall extend for a longer period, as aforesaid, or is not subject to termination, as aforesaid, then at or prior thereto

(1) there shall be furnished to the Trustee an Opinion of Counsel that there has been adequately preserved to the Railroad Company the equal or prior right to the use of any such line of railroad, bridge, or terminal in which an undivided interest has been disposed of or as to which an easement or trackage right has been so granted, and to appurtenant facilities, if any, as to which a right of use has been so granted, and

(2) there shall be filed with the Trustee a Certified Resolution determining and expressing the judgment of the Board of Directors, in the case of any such sale, exchange or other disposition, that the same is advantageous to the economical and efficient operation of the business of the Railroad Company, or, in the case of any such easement or trackage right agreement, that the terms thereof are reasonable and advantageous to the economical and efficient operation of the business of the Railroad Company and, in either case, that such transaction will not substantially impair the ability of the Railroad Company to handle the traffic of its transportation system subject only to the lien of the Mortgage and Permitted Encumbrances at or between the principal points served thereby nor impair the security or interests of the Bondholders.

In case an easement over, or a trackage agreement providing for the use by another railroad of, any part of

any line of railroad or in any bridge or terminal shall be granted by the Railroad Company for a longer period than the latest maturity of any of the Bonds then outstanding or not be subject to termination by the Trustee upon the occurrence or during the continuance of any Event of Default or by the purchaser of any property to which the same relates upon any sale thereof by virtue of the power of sale hereby conferred or under judicial proceedings, the Trustee shall, at the request of the Railroad Company and upon receiving the Opinion of Counsel and Certified Resolution with respect thereto as provided in this subdivision (b), execute and deliver a certificate or consent to the granting of such easement or trackage agreement.

Any principal point which is the terminus of any line of railroad of the Railroad Company subject to the lien of the Mortgage shall cease to be a principal point if, for a period of 5 successive years after the date of the Mortgage, traffic over the line, or a portion thereof serving such point designated as provided in the following sentence, has been such that the operation by the Railroad Company of such line or such designated portion, as the case may be, has been without profit during the whole of such period. Upon filing with the Trustee of an Officers' Certificate designating any such principal point and the line serving such point, or a specified portion thereof, and showing facts with respect to traffic and operation of such line or such specified portion thereof, as the case may be, fulfilling to the satisfaction of the Trustee the requirements of this paragraph, together with a Certified Resolution expressing the judgment of the Board of Directors that the principal point described in said Certificate is in fact no longer a prin-

principal point in the operation of such lines of railroad, then said principal point shall no longer be deemed or treated as a principal point on such line for any purpose under the provisions of this Part B.

The provisions and limitations of this Part B shall govern any sale by the Railroad Company, pursuant to the provisions of Article X, of the securities of any Railroad Subsidiary owning a connecting line of railroad or bridge which forms a part of the transportation system of the Railroad Company, and any sale, exchange or other disposition by any Railroad Subsidiary, pursuant to the provisions of Article X, of property of such Railroad Subsidiary, to the same extent as though the property owned by such Railroad Subsidiary were owned by the Railroad Company.

PART C. In case any line of railroad (including any leasehold, easement, trackage right or other interest therein) subject to the lien of the Mortgage is desired to be abandoned, prior to any such abandonment there shall be furnished to the Trustee, in addition to all other requirements of this Section 1, an Opinion of Counsel stating that any requisite approval of the Interstate Commerce Commission or other governmental authority having jurisdiction in the premises has been obtained for such abandonment and said Opinion of Counsel shall be accompanied by a certified copy of the order, if any, expressed to be so required.

SECTION 2. Except as hereinafter specifically provided in this Section 2, the Railroad Company while remaining in possession of the mortgaged property may, without obtaining a release from, action by or giving notice to the Trustee and without other action or proceeding on the part of the Railroad Company hereunder:

Company, when authorized by a resolution of its Board of Directors, and the Trustee at any time and from time to time, by entering into an indenture or indentures supplemental hereto may:

(a) modify, alter, add to or eliminate any of the provisions of the Mortgage or the rights of the holders of the Bonds and coupons to be directly affected thereby or the rights and obligations of the Railroad Company, except as provided in Section 3 of this Article XIX;

(b) sanction any compromise of the rights of the holders of such Bonds against the Railroad Company or against its property whether such right shall arise under the provisions of the Mortgage or otherwise;

(c) sanction and approve any plan for the reorganization, readjustment or liquidation of the Railroad Company;

provided, however, that no such modification, alteration, addition, elimination, sanction or approval shall, without in each case the consent of the holders of all Bonds affected thereby,

(i) alter or impair the obligation of the Railroad Company to pay the principal amount of or the interest on any Bonds, or change the place or medium of payment thereof; or

(ii) permit the creation by the Railroad Company of any mortgage or other lien ranking prior to or on a parity with the lien of the Mortgage with respect to any property covered thereby except as in the Mortgage otherwise expressly provided; or

(iii) effect a reduction of the percentage required for any action authorized to be taken by the holders of the Bonds;

and provided further that no such modification, alteration, addition or elimination shall affect the rights, duties or im-

munities of the Trustee without the written consent of the Trustee.

It shall not be necessary for the consent of the Bondholders under this Section 2 to approve the particular form of any proposed supplemental indenture, but it shall be sufficient if such consent shall approve the substance thereof.

SECTION 3. With the consent (evidenced as provided in Section 1 of Article XIII) of the holders of not less than 75% in aggregate principal amount of all of the then Outstanding Bonds, and with the approval of the Interstate Commerce Commission or other public regulatory body having jurisdiction in the premises, the Railroad Company, when authorized by a resolution of its Board of Directors, and the Trustee at any time and from time to time by entering into an indenture or indentures supplemental hereto, may:

(a) extend the time or times of payment of the principal, either before or after the principal is due, of the Bonds of any or all series which at the time shall be outstanding, whether bearing fixed or contingent interest, for a period of not exceeding 20 years beyond the original date or dates designated in such Bonds for the payment of the principal thereof, or

(b) extend the time or times of payment of any fixed interest or accumulations of contingent interest, either before or after the interest is due, on the Bonds of any or all series which at the time shall be outstanding, whether bearing fixed or contingent interest, for a period of not exceeding 5 years after such interest is due, but in no event beyond the original or extended date or dates for the payment of the principal of such Bonds.

SECTION 4. Upon the request of the Railroad Company, accompanied by a Certified Resolution authorizing the execution of any supplemental indenture pursuant to the preceding

Sections of this Article XIX, and upon the filing with the Trustee of evidence of the consent of Bondholders as aforesaid, the Trustee shall join with the Railroad Company in the execution of such supplemental indenture.

SECTION 5. Upon the execution of any supplemental indenture pursuant to the provisions of this Article XIX, the Mortgage shall be and be deemed to be modified and amended in accordance therewith and the respective rights, duties and obligations under the Mortgage of the Railroad Company, the Trustee and the holders of Bonds of all series outstanding thereunder shall thereafter be determined, exercised and enforced hereunder subject in all respects to such modifications and amendments, and all the terms and conditions of any such supplemental indenture shall be and be deemed to be part of the terms and conditions of the Mortgage for any and all purposes.

SECTION 6. Bonds authenticated and delivered after the execution of any supplemental indenture pursuant to the provisions of this Article XIX may bear a notation in form approved by the Trustee as to any matter provided for in such supplemental indenture. If the Railroad Company or the Trustee shall so determine, new Bonds so modified as to conform, in the opinion of the Trustee and the Board of Directors, to any modification of the Mortgage contained in any such supplemental indenture may be prepared by the Railroad Company, authenticated by the Trustee and delivered without expense to the holders of Bonds of the same series then outstanding, upon surrender of such Bonds accompanied, in the case of coupon Bonds, by all unmatured coupons and all unpaid matured coupons which shall be appurtenant thereto, the new Bonds so issued to be of an aggregate principal amount equal to the aggregate principal amount of those so surrendered.

ARTICLE XX

MISCELLANEOUS

SECTION 1. The same officer or officers of the Railroad Company, or the same engineer, accountant or counsel or other person, as the case may be, need not certify to all the matters required to be certified under the provisions of any Article or Section of the Mortgage, but different officers, engineers, accountants, counsel or other persons may certify to different matters respectively.

SECTION 2. Each Officers' Certificate or Opinion of Counsel required to be given responsive to a specified condition or covenant provided for in the Mortgage shall include: (1) a statement that the person making such certificate or giving such opinion has read such covenant or condition; (2) a statement that, in the opinion of such person, he has made such examination or investigation as is necessary to enable him to express an informed opinion as to whether or not such covenant or condition has been complied with; and (3) a statement as to whether or not, in the opinion of such person, such condition or covenant has been complied with.

SECTION 3. Except as otherwise expressly provided herein, nothing in the Mortgage or in any of the Bonds or coupons, express or implied, is intended or shall be construed to confer upon or give to any person, firm or corporation other than the parties hereto and the holders from time to time of the Bonds or coupons issued under the Mortgage any security, right, remedy or claim, legal or equitable, under or by reason of the Mortgage, or under or by reason of any covenant, condition or stipulation herein contained; and the Mortgage and all covenants, conditions and provisions herein contained are and shall be held to be for the sole and ex-

clusive benefit of the parties hereto and the holders from time to time of the Bonds and coupons issued hereunder.

SECTION 4. The Railroad Company shall be entitled to obtain from the Trustee from time to time such certificates and statements of the latter as to matters related to the Mortgage which are within its knowledge as the Railroad Company shall find it necessary or advisable to file with the trustee of the General Mortgage for any of the purposes thereof.

SECTION 5. The Mortgage may be executed in any number of counterparts, each of which shall be an original; but such counterparts shall together constitute but one and the same instrument.

SECTION 6. The Mortgage is dated as of January 1, 1944, although executed and delivered on the date of the acknowledgment hereof by the Trustee; and the same shall be effective by order of the Court in the reorganization proceedings hereinbefore mentioned as of 12:01 A.M., Central Standard Time, on December 1, 1945.

IN WITNESS WHEREOF, CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY, the party of the first part, has caused the Mortgage to be signed and acknowledged by its President or one of its Vice Presidents, and its corporate seal to be affixed hereunto, and the same to be attested by its Secretary or its Assistant Secretary; and Continental Illinois National Bank and Trust Company of Chicago, the party of the second part, to evidence its acceptance of the trust hereby created, has caused the Mortgage to be signed and acknowledged by one of its Vice Presidents and its corporate seal to be affixed hereunto and the same to be attested by one of its Assistant Secretaries. Executed and delivered in the City

of Chicago, State of Illinois, the 4th day of December, 1945,
as of the day and year first written above.

CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC
RAILROAD COMPANY

By H. A. SCANDRETT
(CORPORATE SEAL) *President*

Attest:

T. W. BURTNESS
Secretary

In the presence of

RAY GARRETT
WILLARD P. SCOTT

CONTINENTAL ILLINOIS NATIONAL BANK AND
TRUST COMPANY OF CHICAGO

By F. E. MUSGROVE
(CORPORATE SEAL) *Vice President*

Attest:

V. P. NELSON
Assistant Secretary

In the presence of

E. J. FRIEDRICH
PAUL B. ROBB

of further assurance, which, as set forth in the Opinion of Counsel furnished pursuant to clause (h) of this Part B, are stated to be necessary or advisable to subject to the lien of the Mortgage any property constituting Additions and Betterments included in the Officers' Certificate filed with the Trustee pursuant to clause (c) of this Part B, or, in the case of Additions and Betterments located on leaseholds, to subject the leaseholds to such lien;

(g) An Engineer's Certificate stating the fair value to the Railroad Company of the property a release of which is requested;

(h) An Opinion of Counsel to the effect that:

(1) any purchase money obligations pledged with the Trustee, or with the trustee or mortgagee of any Prior Lien as permitted by Section 4 of this Article XI, have been validly issued; that the assignments, supplemental indentures or other instruments delivered to the Trustee pursuant to clause (f) of this Part B duly assign to the Trustee subject to such lien, or otherwise render subject to the lien of the Mortgage, such purchase money obligations, or that no such instruments are required for such purpose; and that such purchase money obligations are secured by a valid lien upon the property released subject to no liens prior or equal to the lien thereof, except any liens which were Permitted Encumbrances on the property released and except any Prior Lien to which the property released was subject; and

(2) the property constituting Additions and Betterments specified in the Officers' Certificate filed with the Trustee pursuant to clause (c) of this Part B, except such as are located on leaseholds, is subject to the lien of the Mortgage or will become subject to such lien upon the delivery and recording or filing of the deeds, supplemental indentures, or instruments of further assurance, if any, specified in said Opinion of Counsel, subject to no defect in title and subject to no lien thereon prior or equal to the lien of the Mortgage, except Permitted Encumbrances, if any, and if any such property is located on any lease-

hold, as shown by the Application, that such leasehold is subject to the lien of the Mortgage, or will become subject to such lien upon the delivery and recording or filing of the deeds, supplemental indentures or instruments of further assurance, if any, specified in said Opinion of Counsel, and extends for a period of time not less than 10 years beyond the latest maturity date of any Bonds then outstanding, or that, under the terms of such leasehold, the Railroad Company has the right to be reimbursed in respect of the Cost of such Additions and Betterments or the right to remove the same upon the termination of such leasehold and that all of the Railroad Company's interest in such leasehold (except the last day of the term thereof), including any such right of reimbursement, has been pledged with the Trustee; provided that such Opinion of Counsel may recite that it is based upon certificates or opinions of officers or engineers of the Railroad Company as to any matters of fact not of public record.

SECTION 4. If, under the provisions of any Prior Lien on any part of property to be released from the Mortgage, there is required to be made with or to the trustee or mortgagee under such lien a deposit of cash or pledge of purchase money obligations in order to obtain a release therefrom of such part of the property subject to the Mortgage, the Railroad Company shall not be required to deposit or pledge with the Trustee such cash or purchase money obligations to the extent that the Railroad Company shall deposit such cash and pledge such purchase money obligations with the trustee or mortgagee of such lien.

SECTION 5. Should any part of the property subject to the lien of the Mortgage be taken by the exercise of the power of eminent domain or should any governmental body at any time exercise any right which it may have to require the sale to it or to a purchaser designated by it of any part of the property subject to the lien of the Mortgage, the Trustee, upon request

of the Railroad Company, shall release the property so taken or sold upon the Trustee's being furnished with an Opinion of Counsel to the effect that such part of the property subject to the lien of the Mortgage has been lawfully taken or sold as aforesaid. The aforesaid Opinion of Counsel shall state the amount of proceeds received or to be received for the property so taken or sold. Subject to the provisions of Section 4 of this Article XI, the proceeds of all property so taken or sold shall be deposited with the Trustee.

SECTION 6. In order to confirm, secure or clear (of record or otherwise) the prior right, charge, lien or title with respect to Equipment securing any Equipment Obligation hereafter created under reservation of right set forth in connection with the granting clauses of the Mortgage, the Trustee shall, upon compliance with the subsequent provisions of this Section 6, either confirm as to such Equipment the subordination of the lien of the Mortgage to such prior right, charge, lien or title, or release such Equipment from the lien of the Mortgage.

Prior to any such confirmation of subordination or release there shall be delivered to the Trustee a Certified Resolution requesting such action by the Trustee and an Officers' Certificate which shall describe the Equipment as to which a confirmation of subordination or a release is requested, shall describe the Equipment Obligation to be secured by a prior right, charge, lien or title thereon, shall state that such Equipment was acquired or constructed for the use of the Railroad Company within two years preceding the date of such Certificate, and shall state that none of said Equipment has theretofore been Bonded or Otherwise Financed.

There shall also be furnished to the Trustee an Opinion of Counsel and the instrument or instruments to be executed and delivered by the Trustee in order to effect the requested

confirmation of subordination or release. Such Opinion of Counsel shall approve the form of the instrument or instruments furnished therewith and shall express the opinion that, after the execution and delivery by the Trustee of such confirmation of subordination or release, the lien of the Mortgage will continue to attach to all right, title or interest of the Railroad Company then or thereafter existing with respect to the Equipment described in the Certificate, subject only to the prior right, charge, lien or title of the Equipment Obligations therein described, and to Permitted Encumbrances; but such expression of opinion may be predicated upon the execution and delivery of other instruments in addition to those specified above, or the taking of other action, in which case the Railroad Company shall cause such other instruments to be executed and delivered or such other action to be taken.

SECTION 7. Unless an Event of Default shall have occurred and be continuing, all moneys held by the Trustee under this Article XI, at the option of the Railroad Company:

(a) May be withdrawn by the Railroad Company upon its written Application, accompanied by a Certified Resolution authorizing such Application, in an amount equal to the Gross Expenditures with respect to Additions and Betterments acquired or constructed after the date of the deposit of the moneys desired to be withdrawn, provided such Expenditures have not been Bonded or Otherwise Financed; but only upon delivery to the Trustee of an Officers' Certificate, dated not more than 30 days prior to the delivery thereof, containing a description in reasonable detail of the property constituting the Additions and Betterments represented by such Gross Expenditures and a statement of the amount of such Gross Expenditures, that no part of such Gross Expenditures has theretofore been Bonded or Otherwise Financed, and that no Event of Default has occurred and is continuing. There shall be delivered to the Trustee, accom-

panying said Application, deeds and instruments of transfer and an Opinion of Counsel of the character required in clauses (f) and (h) (2) of Part B of Section 3 of this Article XI.

(b) May be withdrawn by the Railroad Company upon its written Application, accompanied by a Certified Resolution authorizing such Application, in an amount equal to 133⅓% of the principal amount of Bonds to the authentication and delivery of which the Railroad Company would then be entitled on account of Bondable Expenditures under the provisions of Section 2 of Article III. On any such Application the Railroad Company shall comply with all applicable provisions of Section 2 of Article III relating to the authentication and delivery of Bonds and the provisions of Section 8 of Article III, except that it shall not be required to comply with any of the provisions of clause (f) of Section 2 of Article III or Section 8 of Article III other than clauses (d) (4) and (e) of said Section 8. Any withdrawal of cash under this paragraph shall be in lieu of the right of the Railroad Company to the authentication and delivery of Bonds on account of such Bondable Expenditures.

(c) May be withdrawn by the Railroad Company upon its written Application in an amount not exceeding the principal amount or the cost (exclusive of interest) to the Railroad Company, whichever is less, of any Bonds (not theretofore Bonded, or acquired, retired, cancelled or paid through the operation of any sinking fund or analogous fund established pursuant to the Mortgage or pursuant to the General Mortgage) theretofore authenticated and delivered under the Mortgage which shall have been cancelled or surrendered to the Trustee for cancellation, but only upon delivery to the Trustee of

(1) an Officers' Certificate describing the Bonds the cancellation or surrender for cancellation of which forms the basis for the proposed withdrawal of cash, stating

the cost thereof (exclusive of interest) to the Railroad Company, and stating that said Bonds have theretofore been duly issued and outstanding and reacquired by the Railroad Company, that none of said Bonds has theretofore been Bonded, or acquired, retired, cancelled or paid through the operation of any sinking fund or analogous fund established pursuant to the Mortgage or pursuant to the General Mortgage, and that no Event of Default has occurred and is continuing; and

(2) the particular Bonds together with all appropriate coupons, if any, appertaining thereto.

(d) May be applied, upon the written request of the Railroad Company, signed by its President or a Vice President, accompanied by a Certified Resolution authorizing such request, to the payment at maturity or to the redemption of Bonds then outstanding of any series determined by said Resolution. Any such request of the Railroad Company for the application of moneys pursuant to this clause (d) shall also be accompanied by an Officers' Certificate stating that no Event of Default has occurred and is continuing.

The Railroad Company covenants that whenever any redemption of Bonds shall be applied for under the provisions of clause (d) of this Section 7, it will take all action necessary, or authorize the Trustee to take all action necessary, to redeem such Bonds at the earliest applicable redemption date, and will deposit with Trustee on or before the date fixed for redemption additional moneys sufficient to pay the premium and all accrued and unpaid interest on the Bonds so to be redeemed to the date so fixed for redemption.

If and when the Railroad Company shall so request by Certified Resolution filed with the Trustee, provided no Event of Default shall have occurred and then be continuing, any moneys at the time held under this Article XI by the Trustee shall be invested by it in such direct obligations of the United States of America maturing within 2 years as shall be speci-

fied in such Resolution. Such obligations shall be held by the Trustee in lieu of the moneys invested therein subject to its absolute right to liquidate such investment in such manner and at such time or times as, in the exercise of its discretion, it deems to be advisable. The Railroad Company covenants that upon demand by the Trustee it will replace all moneys lost through any investment made and liquidated as by this Section 7 contemplated, and will pay or reimburse the Trustee for all accrued interest, commissions and expense paid or incurred in connection with the acquisition and liquidation of such investment. The Trustee shall have the right and duty to receive all amounts paid on account of any investment made by it as hereby contemplated, including all interest payments, shall retain such interest payments pending liquidation of such investment, and after such liquidation shall retain so much of such interest payments as may be necessary to replace any loss of moneys suffered or to pay or reimburse itself for any accrued interest, commissions or expense paid or incurred in connection with the acquisition and liquidation of such investment and not replaced, paid or reimbursed by the Railroad Company as above provided, and shall pay over any balance of such interest payments to the Railroad Company.

SECTION 8. The Trustee shall not be required under any of the provisions of this Article XI to release any part of the property subject to the lien of the Mortgage from the lien hereof at any time when an Event of Default shall have occurred and be continuing; but, notwithstanding any such Event of Default, the Trustee may do so upon compliance by the Railroad Company with the provisions of Section 3 of this Article XI except clause (c)(5) of Part B of said Section 3, if the Trustee in its discretion shall deem that such release will not adversely affect the interests of the Bondholders, or if the holders of a majority in principal amount of the Outstanding Bonds shall request the Trustee so to do.

SECTION 9. In no event shall any purchaser or purchasers of any part of the mortgaged property sold or disposed of under any provisions of this Article XI be required to ascertain the authority of the Trustee to execute any release, to see to the application of the purchase money or to inquire as to any facts required by the provisions hereof for the exercise of such authority.

SECTION 10. Notwithstanding any of the provisions of the Mortgage, the Trustee shall release, either before or after an Event of Default shall have occurred, the lien of the Mortgage as to any property or properties or part or parts thereof at any time subject thereto, and cause such property or properties to revert to the Railroad Company free and clear of such lien; provided, however, that, prior to the release of any such property under this Section 10, there shall have been delivered to the Trustee in each case:

(a) a request (evidenced as provided in Section 1 of Article XIII) of the holders of not less than 75% in aggregate principal amount of all Outstanding Bonds, to release the property in question and the designation by such holders of the independent railroad expert referred to in subsection (c) below; or

(b) the record showing that the holders of not less than 85% in aggregate principal amount of all Outstanding Bonds represented at a Bondholders' Meeting, called and conducted pursuant to Article XIV hereof, at which not less than 50% in aggregate principal amount of all Outstanding Bonds were represented, requested the release of the property in question and designated the independent railroad expert referred to in subsection (c) below; and

(c) in either case, a report of the independent railroad expert designated pursuant to either subsection (a) or subsection (b) above, to the effect that such property is no longer of value to the holders of Outstanding Bonds and that, in his opinion, a proper allocation of revenues and expenses thereto then shows, and in the future may reasonably be expected to show, a loss.

such as may have arisen by its negligence or bad faith, and the payment of all taxes, assessments or liens prior to the lien of the Mortgage, except taxes, assessments and prior liens, if any, subject to which the property shall have been sold.

Second. To the payment of the whole amount then due and unpaid upon the Outstanding Bonds for principal and interest, with interest on the overdue principal at the highest rate of interest borne by any of the Outstanding Bonds, and in case such moneys shall be insufficient to pay in full the whole amount so due and unpaid upon the Outstanding Bonds, then to the payment of such principal and interest proportionately, according to the aggregate of such principal and accrued and unpaid interest, without preference or priority of any Outstanding Bond over any other Outstanding Bond of the same or of another series or of principal over interest, or of interest over principal, or of any instalment of interest over any other instalment of interest, subject, however, to the provisions of Section 1 of this Article XVI.

Third. To the payment of the surplus, if any, to the Railroad Company, its successors or assigns, or to whosoever may be lawfully entitled to receive the same, or as a court of competent jurisdiction may direct.

SECTION 12. In case of any sale under the foregoing provisions of this Article XVI, whether made under the power of sale hereby granted or pursuant to judicial proceedings, any purchaser, for the purpose of making settlement or payment for the property purchased, shall be entitled to use and apply any Bonds and any matured and unpaid coupons and interest obligations hereby secured, subject to the provisions of Section 1 of this Article XVI, by presenting such Bonds and coupons in order that there may be credited as paid thereon the sums payable out of the net proceeds of such sale to the holder or registered owner of such Bonds and coupons, as his propor-

tionate share of such net proceeds; and such purchaser shall be credited on account of the purchase price payable by him with the sums payable out of such net proceeds which shall be applicable to the payment of and which shall have been credited, upon the Bonds and coupons so presented; and, at any such sale, any Bondholder may bid for and purchase such property, and may make payment therefor as aforesaid, and, upon compliance with the terms of said sale, may hold, retain and dispose of such property without further accountability therefor.

SECTION 13. The Railroad Company covenants that (a) if default shall be made in the payment of any interest on any Outstanding Bonds, or (b) if default shall be made in the payment of the principal of any Outstanding Bonds, or the premium thereon payable on redemption thereof, when the same shall become due and payable, whether at the maturity of such Bonds, upon redemption, by declaration or by a sale of the mortgaged property, or otherwise, then, upon demand of the Trustee, the Railroad Company will pay to the Trustee for the benefit of the holders of such Bonds and coupons the whole amount then due and payable on such Bonds and coupons, for principal (and premium, if any) or interest, or both, as the case may be, with interest on the overdue principal at the highest rate of interest borne by any of the Outstanding Bonds; and in case the Railroad Company shall fail to pay the same forthwith upon such demand, the Trustee, in its own name and as Trustee of an express trust, shall be entitled to recover judgment for the whole amount so due and unpaid.

The Trustee shall be entitled to institute and prosecute any action and enforce any judgment or final decree as aforesaid, either before or after or during the pendency of any proceedings for the enforcement of the lien of the Mortgage, and

the right of the Trustee to such judgment or final decree shall not be affected by any entry or sale hereunder, or by the exercise of any other right, power or remedy for the enforcement of the provisions of the Mortgage or the foreclosure of the lien hereof; and in case of a sale of the mortgaged property or any part thereof, the Trustee, in its own name and as trustee of an express trust, shall be entitled to enforce payment of, and to receive, all amounts then remaining due and unpaid upon any and all of the Bonds and coupons, for the benefit of the holders thereof, and shall be entitled to institute and prosecute any action and enforce any judgment or final decree as aforesaid for any portion of the said debt remaining unpaid, with interest. No judgment or decree obtained by the Trustee, and no levy of any execution upon the mortgaged property, or upon any other property, shall in any manner, or to any extent, affect the lien of the Mortgage upon the mortgaged property, or any part thereof, or any lien, rights, powers or remedies of the Trustee hereunder, or any lien, rights, powers or remedies of the Bondholders, but such lien, rights, powers and remedies shall continue unimpaired as before, except as otherwise provided by law.

Any moneys collected by the Trustee under this Section 13 shall be applied by the Trustee,

First, to the payment of the costs and expenses of the proceedings resulting in the collection of such moneys, and of the compensation of and the expenses, liabilities and advances made or incurred by the Trustee hereunder, except such as may have arisen by its negligence or bad faith; and

Second, to the payment of the amounts then due and unpaid upon the Outstanding Bonds and coupons in respect of which such moneys shall have been collected, without any preference or priority of any kind, but subject to the provisions of Section 1 of this Article XVI,

proportionately according to the amounts due and payable upon such Outstanding Bonds and coupons, respectively, at the date fixed by the Trustee for distribution of such moneys, upon presentation of the several Outstanding Bonds and coupons and their surrender if fully paid, or for proper stamping if only partially paid.

SECTION 14. The Railroad Company will not at any time insist upon or plead, or claim to take advantage of any statute or rule of law, now or hereafter in force, wherever enacted or established, in aid of debtors or permitting or providing for (a) the staying of actions in respect of mortgages or mortgage indebtedness, or for extending the time for payment of such indebtedness; (b) the valuation or appraisalment of the property held under any mortgage or pledge to secure indebtedness prior to any sale or sales thereof pursuant to the terms of such mortgage or pledge or to the decree, judgment or order of any court; or (c) the redemption of any property so sold; and the Railroad Company hereby expressly waives all benefit and advantage of any such statute or rule of law, and covenants that it will not hinder, delay or impede the execution of any power herein granted or delegated to the Trustee, but that it will suffer and permit the execution of every such power, as though no such statute or rule of law had been enacted or established.

SECTION 15. In case (1) an Event of Default shall occur and (a) at any time during the continuance of such Event of Default there shall be any existing judgment against the Railroad Company unsatisfied and unsecured by bond on appeal or (b) in any judicial proceeding by any party other than the Trustee, a receiver shall be appointed of the Railroad Company or of its property or any part thereof, or a judgment or order be entered for the sequestration of its property or any part thereof; or, in case (2) the Railroad

Company shall make default in the payment of interest specified in clause (a) of Section 2 of this Article XVI, and shall by resolution of its Board of Directors admit to the Trustee its inability to make good such default; then the Trustee, in either such case, shall thereupon be entitled, in the discretion of the Trustee, forthwith to exercise the right of entry herein conferred and also any and all other rights and powers herein conferred and provided to be exercised by the Trustee upon the happening and continuance of an Event of Default as hereinbefore provided; and the Trustee shall thereupon be entitled as a matter of right (i) to the appointment of a receiver of the mortgaged property and of the earnings, rents, issues, profits, tolls, revenues and income thereof, with such powers as the court making such appointment shall confer, and (ii) to the entry of an order directing that the rents, issues, profits, tolls, revenues and other income of the premises and property comprised in the mortgaged property be segregated, sequestered and impounded for the benefit of the Trustee and the Bondholders from and after the date of the institution of any judicial proceedings of the nature referred to in this Section 15 or in clauses (d) and (e) of Section 2 of this Article XVI. Notwithstanding the appointment of any such receiver, the Trustee, as pledgee, shall be entitled to retain possession and control of, and to collect all interest and dividends or earnings on, any shares of stock, cash, bonds and other obligations pledged with it as security hereunder.

The Railroad Company hereby irrevocably consents to the appointment of such receiver and to the entry of such order.

SECTION 16. Upon application of the Trustee to any court of competent jurisdiction, and with the consent of the Railroad Company if none of the Events of Default shall have occurred and be continuing, and without such consent if one or more of the Events of Default shall have occurred and be

continuing, a receiver may be appointed to take possession of, and to operate, maintain and manage the mortgaged property or any part thereof, and any other property of the Railroad Company used for, in or about, or the use or possession whereof shall be essential to, the operation of the mortgaged railroads or any thereof, and the Railroad Company shall transfer and deliver to such receiver all such property, wheresoever the same may be situated; and in every case when a receiver of the whole or of any part of said property shall be appointed under this Section 16, or otherwise, the net income and profits of the mortgaged property shall be paid over to, and shall be received by, the Trustee for the benefit of the holders of the Outstanding Bonds and coupons to be applied as provided in Section 2 of this Article XVI; provided, however, that, notwithstanding the appointment of any such receiver, the Trustee shall be entitled to retain control of, and to collect all interest and dividends or earnings on, any shares of stock, cash, bonds and other obligations pledged with it as security hereunder.

SECTION 17. No holder of any Bond or coupon shall have any right to institute any suit, action or proceeding in equity or at law for the foreclosure of the Mortgage, or for the execution of any trust hereunder, including the appointment of a receiver, or for any other remedy hereunder, unless (a) such holder previously shall have delivered to the Trustee written notice that one or more Events of Default, which default or defaults shall be specified in such notice, has occurred and is continuing, and (b) the holders of not less than 25% in principal amount of the then Outstanding Bonds shall have requested the Trustee in writing and shall have afforded to it reasonable opportunity either to proceed to exercise the powers hereinbefore granted, or to institute such action, suit or proceeding in its own name, and (c) one or more

holders of Bonds shall have offered to the Trustee adequate security and indemnity, satisfactory to it, against the costs, expenses and liabilities to be incurred therein or thereby, nor unless the Trustee shall have refused or neglected to act on such notification, request and offer of indemnity for at least 30 days; and such notification, request and offer of indemnity are hereby declared, in every such case, at the option of the Trustee, to be conditions precedent to the exercise of the powers and trusts of the Mortgage and to any action or cause of action for foreclosure, including the appointment of a receiver or trustee, or for any other remedy hereunder; it being understood and intended that no holder of any Bond or coupon shall have any right in any manner whatsoever by his action to affect, disturb or prejudice the lien of the Mortgage or to enforce any right hereunder, except in the manner herein provided, and that all proceedings at law or in equity shall be instituted, had or maintained in the manner herein provided, and for the equal benefit of all holders of the Outstanding Bonds and coupons.

Nothing contained in this Section 17 or elsewhere in the Mortgage or in the Bonds or in the coupon shall affect or impair the obligation of the Railroad Company, which is unconditional and absolute, to pay the principal of, premium, if any, and interest on the Bonds to the respective holders of the Bonds and to the respective holders of the coupons, as provided in such Bonds, nor affect or impair the right of action at law, which is also absolute and unconditional, of such holders to collect such payment.

SECTION 18. Except as herein expressly provided to the contrary, no remedy herein conferred upon or reserved to the Trustee or the Bondholders is intended to be exclusive of any other remedy or remedies, but each and every such remedy shall be cumulative, and shall be in addition to every other

remedy given hereunder, or now or hereafter existing at law or in equity or by statute.

SECTION 19. No delay of the Trustee or of any Bondholder in exercising any right or power accruing upon any default continuing as aforesaid and no omission to exercise any such right or power shall impair any such right or power or shall be construed to be a waiver of any such default, or an acquiescence therein; and every power and remedy given by this Article XVI to the Trustee, or to any Bondholder, may be exercised from time to time, and as often as may be deemed expedient, by the Trustee or by such Bondholder, respectively.

SECTION 20. The Trustee shall have power, but shall be under no duty, to institute and maintain suits or proceedings to restrain the enforcement of, or compliance with, or the observance of, any legislative or governmental enactment, rule or order that it may be advised and believe is unconstitutional, or otherwise invalid, if the enforcement of, or compliance with, or observance of, such enactment, rule or order would, in the judgment of the Trustee, impair the security hereunder or be prejudicial to the Trustee or to the Bondholders.

SECTION 21. The holders of a majority in aggregate principal amount of the Outstanding Bonds shall have the right to direct the time, method, and place of conducting any proceeding for any remedy available to the Trustee, or the exercise or non-exercise of any trust or power conferred on the Trustee. The holders of a majority in aggregate principal amount of the Outstanding Bonds may on behalf of the holders of all of the Bonds waive any past default hereunder and its consequences except an Event of Default specified in clauses (a) or (b) of Section 2 of this Article XVI. In the case of any such waiver, the Railroad Company, the Trustee

and the Bondholders shall be restored to their former positions and rights hereunder, respectively; but no such waiver shall extend to any subsequent or other default or impair any right consequent thereon.

SECTION 22. All parties to the Mortgage agree, and each holder of any Bond by his acceptance thereof shall be deemed to have agreed, that any court may in its discretion require, in any suit for the enforcement of any right or remedy under this Mortgage, or in any suit against the Trustee for any action taken or omitted by it as Trustee, the filing by any party litigant in such suit of an undertaking to pay the costs of such suit, and that such court may in its discretion assess reasonable costs, including reasonable attorneys' fees, against any party litigant in such suit, having due regard to the merits and good faith of the claims or defenses made by such party litigant; but the provisions of this Section 22 shall not apply to any suit instituted by the Trustee, to any suit instituted by any Bondholder or group of Bondholders holding more than 10% in aggregate principal amount of the Outstanding Bonds, or to any suit instituted by any Bondholder for the enforcement of the payment of the principal of or interest on any Bond, on or after the due date expressed in such Bond.

SECTION 23. To the extent that any provision of this Article XVI may be invalid or unenforceable under any applicable law with respect to any of the mortgaged property, such provision shall be deemed inoperative and inapplicable.

ARTICLE XVII

IMMUNITY OF INCORPORATORS, STOCKHOLDERS, DIRECTORS
AND OFFICERS

The Mortgage and the Bonds and coupons are solely corporate obligations. No recourse shall be had for the payment of the principal of or the interest on any Bond, or for any claim based thereon or on any coupon appurtenant thereto, or because of the creation of the indebtedness represented thereby, or otherwise in respect thereof, or based on or in respect of the Mortgage, against any past, present or future incorporator, stockholder, officer or director of the Railroad Company, as such, whether by virtue of any constitution, statute or rule of law or by the enforcement of any assessment or penalty or otherwise, all such liability, by the acceptance of such Bond and as part of the consideration for the issuance thereof, being expressly waived and released.

ARTICLE XVIII

DEFEASANCE

SECTION 1. If (a) the Railroad Company shall deliver to the Trustee for cancellation all Bonds and appurtenant coupons not theretofore cancelled and delivered to the Trustee, or (b) all Bonds not theretofore delivered to the Trustee cancelled or for cancellation shall have become due and payable, or are by their terms to become due and payable within 90 days or are to be redeemed within 90 days under arrangements satisfactory to the Trustee for the giving of notice of redemption, and the Railroad Company shall deposit with the Trustee as trust funds an amount sufficient to pay at maturity or upon redemption all of the Bonds not theretofore delivered to the Trustee cancelled or for cancellation, including the principal thereof, premium, if any, and the full amount of unpaid interest which has or will become due to such date of maturity or redemption, as the case may be, and if in either case the Railroad Company shall also pay or cause to be paid all other sums payable hereunder by the Railroad Company, then the Mortgage shall cease to be of further effect. In such event the Trustee, on demand of the Railroad Company and at its cost and expense, shall execute and deliver to the Railroad Company such instrument or instruments as may be appropriate to acknowledge satisfaction of the Mortgage, and as will enable the Railroad Company to have the Mortgage discharged of record, and shall release and assign, or cause to be released and assigned, to the Railroad Company all of its interest in the mortgaged property, and shall deliver to the Railroad Company or upon its order all securities and moneys then held by the Trustee under the provisions hereof other than the money deposited as above provided in this Article XVIII.

The Railroad Company, notwithstanding the satisfaction of the Mortgage as above provided, will indemnify the Trustee and hold it harmless against any and all expense or liability, incurred without negligence or bad faith, ascertained

or incurred by the Trustee after the satisfaction thereof arising out of or based upon any matter connected with the trust created by the Mortgage.

SECTION 2. All moneys deposited with the Trustee pursuant to Section 1 of this Article XVIII shall be held in trust and applied by it to the payment to the holders of the Bonds and coupons of all sums due and to become due thereon for principal and interest and premium, if any.

SECTION 3. Upon the satisfaction and discharge of the Mortgage, all moneys then held by any paying agent under any provision of the Mortgage shall be paid to the Trustee, and thereupon such paying agent shall be released from all further liability with respect to such moneys.

SECTION 4. Any moneys deposited by the Railroad Company with the Trustee or with any paying agent for the payment of the principal of, or the premium or interest on, any Bond which shall remain unclaimed by the holder of the Bond or coupon entitled to receive the same for 10 years after the date upon which the principal of such Bond shall have become due and payable (upon redemption or otherwise) shall be repaid to the Railroad Company on demand; and the holder of any Bond or coupon entitled to receive such payment shall thereafter look only to the Railroad Company for the payment thereof; provided, however, that (a) before any such repayment may be made, the Trustee, at the expense of the Railroad Company, shall cause to be published once a week for two successive calendar weeks (in each case on any day of the week) in a Daily Newspaper in the Borough of Manhattan, City of New York, New York, and in a Daily Newspaper in the City of Chicago, Illinois, a notice that said moneys have not been claimed and that after a date named therein any balance of said moneys then remaining will be returned to the Railroad Company, and (b) the amount of such repayment shall be limited to the balance of such moneys unclaimed at the close of business on such date.

ARTICLE XIX

SUPPLEMENTAL INDENTURES

SECTION 1. The Railroad Company, when authorized by a resolution of its Board of Directors, and the Trustee may from time to time and at any time enter into an indenture or indentures supplemental hereto for one or more of the following purposes:

(a) To convey, transfer and assign to the Trustee and subject to the lien of the Mortgage, with the same force and effect as though included in the granting clauses hereof, additional property then owned by the Railroad Company, acquired through consolidation, merger, purchase or otherwise;

(b) To evidence the succession of another corporation to the Railroad Company, or successive successions, and the assumption by the successor corporation of the covenants, agreements and obligations of the Railroad Company pursuant to Article XII;

(c) To set forth the terms and provisions of any series of Bonds to be issued hereunder and the form of the Bonds and coupons of such series;

(d) To add to the covenants of the Railroad Company such further covenants for the protection of the mortgaged property and the Bondholders as the Board of Directors and the Trustee shall consider to be for the protection of the Bondholders, and to make the occurrence and continuance of a default under any of such additional covenants a default permitting the enforcement of all or any of the several remedies provided in the Mortgage; provided, however, that in respect of any such additional covenant, such supplemental indenture may provide for a particular period of grace after default (which period may be shorter or longer than that allowed in the case of other defaults) or may provide for an immediate enforcement of said remedy or remedies upon

such default or may limit the remedies available to the Trustee upon such default or may authorize the holders of not less than a majority in aggregate principal amount of the Outstanding Bonds to waive such default and prescribe limitations on such rights of waiver; and

(e) To cure any ambiguity or to correct or supplement any provision contained in the Mortgage which may be defective or inconsistent with any other provision contained herein or in any supplemental indenture, or to make such other provisions in regard to matters or questions arising under the Mortgage as shall not be inconsistent with the provisions of the Mortgage and shall not adversely affect the interest of the Bondholders.

The Trustee is hereby authorized to join with the Railroad Company in the execution of any such supplemental indenture, to make any further appropriate agreements and stipulations which may be therein contained and to accept the conveyance, transfer and assignment of any property thereunder, but the Trustee shall not be obligated to enter into any such supplemental indenture which, in its opinion, affects the Trustee's own rights, duties or immunities under the Mortgage or otherwise.

Any supplemental indenture authorized by the provisions of this Section 1 may be executed by the Railroad Company and the Trustee without the consent of the holders of any of the then Outstanding Bonds, notwithstanding any of the provisions of Section 2 of this Article XIX.

SECTION 2. With the consent (evidenced as provided in Section 1 of Article XIII) of the holders of not less than 66⅔% in aggregate principal amount of the Outstanding Bonds to be directly affected thereby, and with the approval of the Interstate Commerce Commission or other public regulatory body having jurisdiction in the premises, the Railroad

ARTICLE XIV

BONDHOLDERS' MEETINGS

SECTION 1. The Trustee may at any time call a meeting of Bondholders to take any action specified in Section 1 of Article XIII, to be held at such time and at such place as the Trustee shall determine. Notice of every meeting of Bondholders, setting forth the time and place of such meeting and the action proposed to be taken at such meeting, shall be published at least once each week, for 4 successive weeks, in a Daily Newspaper in the Borough of Manhattan, City and State of New York, and in a Daily Newspaper in the City of Chicago, State of Illinois, the first publication in any such newspaper to be not less than 30 days nor more than 60 days prior to the date fixed for the meeting. A copy of such notice shall be mailed at least 30 days prior to the date fixed for the meeting to the registered holders of registered Bonds without coupons and of coupon Bonds registered as to principal at their last addresses as they shall appear upon the bond registry books, but neither failure to give such notice by mail nor any defect therein shall affect the validity of such meeting.

SECTION 2. In case at any time the Railroad Company pursuant to a resolution of its Board of Directors, or the holders of at least 10% in aggregate principal amount of the Outstanding Bonds, shall have requested the Trustee to call a meeting of Bondholders, by written request setting forth in reasonable detail the action proposed to be taken at the meeting, and the Trustee shall not have made the first publication of the notice of such meeting within 20 days after receipt of such request, then the Railroad Company or the holders of Outstanding Bonds in the amount above specified may determine the time and place for such meeting

principal point in the operation of such lines of railroad, then said principal point shall no longer be deemed or treated as a principal point on such line for any purpose under the provisions of this Part B.

The provisions and limitations of this Part B shall govern any sale by the Railroad Company, pursuant to the provisions of Article X, of the securities of any Railroad Subsidiary owning a connecting line of railroad or bridge which forms a part of the transportation system of the Railroad Company, and any sale, exchange or other disposition by any Railroad Subsidiary, pursuant to the provisions of Article X, of property of such Railroad Subsidiary, to the same extent as though the property owned by such Railroad Subsidiary were owned by the Railroad Company.

PART C. In case any line of railroad (including any leasehold, easement, trackage right or other interest therein) subject to the lien of the Mortgage is desired to be abandoned, prior to any such abandonment there shall be furnished to the Trustee, in addition to all other requirements of this Section 1, an Opinion of Counsel stating that any requisite approval of the Interstate Commerce Commission or other governmental authority having jurisdiction in the premises has been obtained for such abandonment and said Opinion of Counsel shall be accompanied by a certified copy of the order, if any, expressed to be so required.

SECTION 2. Except as hereinafter specifically provided in this Section 2, the Railroad Company while remaining in possession of the mortgaged property may, without obtaining a release from, action by or giving notice to the Trustee and without other action or proceeding on the part of the Railroad Company hereunder:

Company, when authorized by a resolution of its Board of Directors, and the Trustee at any time and from time to time, by entering into an indenture or indentures supplemental hereto may:

(a) modify, alter, add to or eliminate any of the provisions of the Mortgage or the rights of the holders of the Bonds and coupons to be directly affected thereby or the rights and obligations of the Railroad Company, except as provided in Section 3 of this Article XIX;

(b) sanction any compromise of the rights of the holders of such Bonds against the Railroad Company or against its property whether such right shall arise under the provisions of the Mortgage or otherwise;

(c) sanction and approve any plan for the reorganization, readjustment or liquidation of the Railroad Company;

provided, however, that no such modification, alteration, addition, elimination, sanction or approval shall, without in each case the consent of the holders of all Bonds affected thereby,

(i) alter or impair the obligation of the Railroad Company to pay the principal amount of or the interest on any Bonds, or change the place or medium of payment thereof; or

(ii) permit the creation by the Railroad Company of any mortgage or other lien ranking prior to or on a parity with the lien of the Mortgage with respect to any property covered thereby except as in the Mortgage otherwise expressly provided; or

(iii) effect a reduction of the percentage required for any action authorized to be taken by the holders of the Bonds;

and provided further that no such modification, alteration, addition or elimination shall affect the rights, duties or im-

munities of the Trustee without the written consent of the Trustee.

It shall not be necessary for the consent of the Bondholders under this Section 2 to approve the particular form of any proposed supplemental indenture, but it shall be sufficient if such consent shall approve the substance thereof.

SECTION 3. With the consent (evidenced as provided in Section 1 of Article XIII) of the holders of not less than 75% in aggregate principal amount of all of the then Outstanding Bonds, and with the approval of the Interstate Commerce Commission or other public regulatory body having jurisdiction in the premises, the Railroad Company, when authorized by a resolution of its Board of Directors, and the Trustee at any time and from time to time by entering into an indenture or indentures supplemental hereto, may:

(a) extend the time or times of payment of the principal, either before or after the principal is due, of the Bonds of any or all series which at the time shall be outstanding, whether bearing fixed or contingent interest, for a period of not exceeding 20 years beyond the original date or dates designated in such Bonds for the payment of the principal thereof, or

(b) extend the time or times of payment of any fixed interest or accumulations of contingent interest, either before or after the interest is due, on the Bonds of any or all series which at the time shall be outstanding, whether bearing fixed or contingent interest, for a period of not exceeding 5 years after such interest is due, but in no event beyond the original or extended date or dates for the payment of the principal of such Bonds.

SECTION 4. Upon the request of the Railroad Company, accompanied by a Certified Resolution authorizing the execution of any supplemental indenture pursuant to the preceding

Sections of this Article XIX, and upon the filing with the Trustee of evidence of the consent of Bondholders as aforesaid, the Trustee shall join with the Railroad Company in the execution of such supplemental indenture.

SECTION 5. Upon the execution of any supplemental indenture pursuant to the provisions of this Article XIX, the Mortgage shall be and be deemed to be modified and amended in accordance therewith and the respective rights, duties and obligations under the Mortgage of the Railroad Company, the Trustee and the holders of Bonds of all series outstanding thereunder shall thereafter be determined, exercised and enforced hereunder subject in all respects to such modifications and amendments, and all the terms and conditions of any such supplemental indenture shall be and be deemed to be part of the terms and conditions of the Mortgage for any and all purposes.

SECTION 6. Bonds authenticated and delivered after the execution of any supplemental indenture pursuant to the provisions of this Article XIX may bear a notation in form approved by the Trustee as to any matter provided for in such supplemental indenture. If the Railroad Company or the Trustee shall so determine, new Bonds so modified as to conform, in the opinion of the Trustee and the Board of Directors, to any modification of the Mortgage contained in any such supplemental indenture may be prepared by the Railroad Company, authenticated by the Trustee and delivered without expense to the holders of Bonds of the same series then outstanding, upon surrender of such Bonds accompanied, in the case of coupon Bonds, by all unmatured coupons and all unpaid matured coupons which shall be appurtenant thereto, the new Bonds so issued to be of an aggregate principal amount equal to the aggregate principal amount of those so surrendered.

ARTICLE XX

MISCELLANEOUS

SECTION 1. The same officer or officers of the Railroad Company, or the same engineer, accountant or counsel or other person, as the case may be, need not certify to all the matters required to be certified under the provisions of any Article or Section of the Mortgage, but different officers, engineers, accountants, counsel or other persons may certify to different matters respectively.

SECTION 2. Each Officers' Certificate or Opinion of Counsel required to be given responsive to a specified condition or covenant provided for in the Mortgage shall include: (1) a statement that the person making such certificate or giving such opinion has read such covenant or condition; (2) a statement that, in the opinion of such person, he has made such examination or investigation as is necessary to enable him to express an informed opinion as to whether or not such covenant or condition has been complied with; and (3) a statement as to whether or not, in the opinion of such person, such condition or covenant has been complied with.

SECTION 3. Except as otherwise expressly provided herein, nothing in the Mortgage or in any of the Bonds or coupons, express or implied, is intended or shall be construed to confer upon or give to any person, firm or corporation other than the parties hereto and the holders from time to time of the Bonds or coupons issued under the Mortgage any security, right, remedy or claim, legal or equitable, under or by reason of the Mortgage, or under or by reason of any covenant, condition or stipulation herein contained; and the Mortgage and all covenants, conditions and provisions herein contained are and shall be held to be for the sole and ex-

clusive benefit of the parties hereto and the holders from time to time of the Bonds and coupons issued hereunder.

SECTION 4. The Railroad Company shall be entitled to obtain from the Trustee from time to time such certificates and statements of the latter as to matters related to the Mortgage which are within its knowledge as the Railroad Company shall find it necessary or advisable to file with the trustee of the General Mortgage for any of the purposes thereof.

SECTION 5. The Mortgage may be executed in any number of counterparts, each of which shall be an original; but such counterparts shall together constitute but one and the same instrument.

SECTION 6. The Mortgage is dated as of January 1, 1944, although executed and delivered on the date of the acknowledgment hereof by the Trustee; and the same shall be effective by order of the Court in the reorganization proceedings hereinbefore mentioned as of 12:01 A.M., Central Standard Time, on December 1, 1945.

IN WITNESS WHEREOF, CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY, the party of the first part, has caused the Mortgage to be signed and acknowledged by its President or one of its Vice Presidents, and its corporate seal to be affixed hereunto, and the same to be attested by its Secretary or its Assistant Secretary; and Continental Illinois National Bank and Trust Company of Chicago, the party of the second part, to evidence its acceptance of the trust hereby created, has caused the Mortgage to be signed and acknowledged by one of its Vice Presidents and its corporate seal to be affixed hereunto and the same to be attested by one of its Assistant Secretaries. Executed and delivered in the City

of Chicago, State of Illinois, the 4th day of December, 1945,
as of the day and year first written above.

CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC
RAILROAD COMPANY

By H. A. SCANDRETT
(CORPORATE SEAL) *President*

Attest:

T. W. BURTNESSE
Secretary

In the presence of

RAY GARRETT
WILLARD P. SCOTT

CONTINENTAL ILLINOIS NATIONAL BANK AND
TRUST COMPANY OF CHICAGO

By F. E. MUSGROVE
(CORPORATE SEAL) *Vice President*

Attest:

V. P. NELSON
Assistant Secretary

In the presence of

E. J. FRIEDRICH
PAUL B. ROBB

of further assurance, which, as set forth in the Opinion of Counsel furnished pursuant to clause (h) of this Part B, are stated to be necessary or advisable to subject to the lien of the Mortgage any property constituting Additions and Betterments included in the Officers' Certificate filed with the Trustee pursuant to clause (c) of this Part B, or, in the case of Additions and Betterments located on leaseholds, to subject the leaseholds to such lien;

(g) An Engineer's Certificate stating the fair value to the Railroad Company of the property a release of which is requested;

(h) An Opinion of Counsel to the effect that:

(1) any purchase money obligations pledged with the Trustee, or with the trustee or mortgagee of any Prior Lien as permitted by Section 4 of this Article XI, have been validly issued; that the assignments, supplemental indentures or other instruments delivered to the Trustee pursuant to clause (f) of this Part B duly assign to the Trustee subject to such lien, or otherwise render subject to the lien of the Mortgage, such purchase money obligations, or that no such instruments are required for such purpose; and that such purchase money obligations are secured by a valid lien upon the property released subject to no liens prior or equal to the lien thereof, except any liens which were Permitted Encumbrances on the property released and except any Prior Lien to which the property released was subject; and

(2) the property constituting Additions and Betterments specified in the Officers' Certificate filed with the Trustee pursuant to clause (c) of this Part B, except such as are located on leaseholds, is subject to the lien of the Mortgage or will become subject to such lien upon the delivery and recording or filing of the deeds, supplemental indentures, or instruments of further assurance, if any, specified in said Opinion of Counsel, subject to no defect in title and subject to no lien thereon prior or equal to the lien of the Mortgage, except Permitted Encumbrances, if any, and if any such property is located on any lease-

hold, as shown by the Application, that such leasehold is subject to the lien of the Mortgage, or will become subject to such lien upon the delivery and recording or filing of the deeds, supplemental indentures or instruments of further assurance, if any, specified in said Opinion of Counsel, and extends for a period of time not less than 10 years beyond the latest maturity date of any Bonds then outstanding, or that, under the terms of such leasehold, the Railroad Company has the right to be reimbursed in respect of the Cost of such Additions and Betterments or the right to remove the same upon the termination of such leasehold and that all of the Railroad Company's interest in such leasehold (except the last day of the term thereof), including any such right of reimbursement, has been pledged with the Trustee; provided that such Opinion of Counsel may recite that it is based upon certificates or opinions of officers or engineers of the Railroad Company as to any matters of fact not of public record.

SECTION 4. If, under the provisions of any Prior Lien on any part of property to be released from the Mortgage, there is required to be made with or to the trustee or mortgagee under such lien a deposit of cash or pledge of purchase money obligations in order to obtain a release therefrom of such part of the property subject to the Mortgage, the Railroad Company shall not be required to deposit or pledge with the Trustee such cash or purchase money obligations to the extent that the Railroad Company shall deposit such cash and pledge such purchase money obligations with the trustee or mortgagee of such lien.

SECTION 5. Should any part of the property subject to the lien of the Mortgage be taken by the exercise of the power of eminent domain or should any governmental body at any time exercise any right which it may have to require the sale to it or to a purchaser designated by it of any part of the property subject to the lien of the Mortgage, the Trustee, upon request

of the Railroad Company, shall release the property so taken or sold upon the Trustee's being furnished with an Opinion of Counsel to the effect that such part of the property subject to the lien of the Mortgage has been lawfully taken or sold as aforesaid. The aforesaid Opinion of Counsel shall state the amount of proceeds received or to be received for the property so taken or sold. Subject to the provisions of Section 4 of this Article XI, the proceeds of all property so taken or sold shall be deposited with the Trustee.

SECTION 6. In order to confirm, secure or clear (of record or otherwise) the prior right, charge, lien or title with respect to Equipment securing any Equipment Obligation hereafter created under reservation of right set forth in connection with the granting clauses of the Mortgage, the Trustee shall, upon compliance with the subsequent provisions of this Section 6, either confirm as to such Equipment the subordination of the lien of the Mortgage to such prior right, charge, lien or title, or release such Equipment from the lien of the Mortgage.

Prior to any such confirmation of subordination or release there shall be delivered to the Trustee a Certified Resolution requesting such action by the Trustee and an Officers' Certificate which shall describe the Equipment as to which a confirmation of subordination or a release is requested, shall describe the Equipment Obligation to be secured by a prior right, charge, lien or title thereon, shall state that such Equipment was acquired or constructed for the use of the Railroad Company within two years preceding the date of such Certificate, and shall state that none of said Equipment has theretofore been Bonded or Otherwise Financed.

There shall also be furnished to the Trustee an Opinion of Counsel and the instrument or instruments to be executed and delivered by the Trustee in order to effect the requested

confirmation of subordination or release. Such Opinion of Counsel shall approve the form of the instrument or instruments furnished therewith and shall express the opinion that, after the execution and delivery by the Trustee of such confirmation of subordination or release, the lien of the Mortgage will continue to attach to all right, title or interest of the Railroad Company then or thereafter existing with respect to the Equipment described in the Certificate, subject only to the prior right, charge, lien or title of the Equipment Obligations therein described, and to Permitted Encumbrances; but such expression of opinion may be predicated upon the execution and delivery of other instruments in addition to those specified above, or the taking of other action, in which case the Railroad Company shall cause such other instruments to be executed and delivered or such other action to be taken.

SECTION 7. Unless an Event of Default shall have occurred and be continuing, all moneys held by the Trustee under this Article XI, at the option of the Railroad Company:

(a) May be withdrawn by the Railroad Company upon its written Application, accompanied by a Certified Resolution authorizing such Application, in an amount equal to the Gross Expenditures with respect to Additions and Betterments acquired or constructed after the date of the deposit of the moneys desired to be withdrawn, provided such Expenditures have not been Bonded or Otherwise Financed; but only upon delivery to the Trustee of an Officers' Certificate, dated not more than 30 days prior to the delivery thereof, containing a description in reasonable detail of the property constituting the Additions and Betterments represented by such Gross Expenditures and a statement of the amount of such Gross Expenditures, that no part of such Gross Expenditures has theretofore been Bonded or Otherwise Financed, and that no Event of Default has occurred and is continuing. There shall be delivered to the Trustee, accom-

panying said Application, deeds and instruments of transfer and an Opinion of Counsel of the character required in clauses (f) and (h) (2) of Part B of Section 3 of this Article XI.

(b) May be withdrawn by the Railroad Company upon its written Application, accompanied by a Certified Resolution authorizing such Application, in an amount equal to 133⅓% of the principal amount of Bonds to the authentication and delivery of which the Railroad Company would then be entitled on account of Bondable Expenditures under the provisions of Section 2 of Article III. On any such Application the Railroad Company shall comply with all applicable provisions of Section 2 of Article III relating to the authentication and delivery of Bonds and the provisions of Section 8 of Article III, except that it shall not be required to comply with any of the provisions of clause (f) of Section 2 of Article III or Section 8 of Article III other than clauses (d) (4) and (e) of said Section 8. Any withdrawal of cash under this paragraph shall be in lieu of the right of the Railroad Company to the authentication and delivery of Bonds on account of such Bondable Expenditures.

(c) May be withdrawn by the Railroad Company upon its written Application in an amount not exceeding the principal amount or the cost (exclusive of interest) to the Railroad Company, whichever is less, of any Bonds (not theretofore Bonded, or acquired, retired, cancelled or paid through the operation of any sinking fund or analogous fund established pursuant to the Mortgage or pursuant to the General Mortgage) theretofore authenticated and delivered under the Mortgage which shall have been cancelled or surrendered to the Trustee for cancellation, but only upon delivery to the Trustee of

(1) an Officers' Certificate describing the Bonds the cancellation or surrender for cancellation of which forms the basis for the proposed withdrawal of cash, stating

the cost thereof (exclusive of interest) to the Railroad Company, and stating that said Bonds have theretofore been duly issued and outstanding and reacquired by the Railroad Company, that none of said Bonds has theretofore been Bonded, or acquired, retired, cancelled or paid through the operation of any sinking fund or analogous fund established pursuant to the Mortgage or pursuant to the General Mortgage, and that no Event of Default has occurred and is continuing; and

(2) the particular Bonds together with all appropriate coupons, if any, appertaining thereto.

(d) May be applied, upon the written request of the Railroad Company, signed by its President or a Vice President, accompanied by a Certified Resolution authorizing such request, to the payment at maturity or to the redemption of Bonds then outstanding of any series determined by said Resolution. Any such request of the Railroad Company for the application of moneys pursuant to this clause (d) shall also be accompanied by an Officers' Certificate stating that no Event of Default has occurred and is continuing.

The Railroad Company covenants that whenever any redemption of Bonds shall be applied for under the provisions of clause (d) of this Section 7, it will take all action necessary, or authorize the Trustee to take all action necessary, to redeem such Bonds at the earliest applicable redemption date, and will deposit with Trustee on or before the date fixed for redemption additional moneys sufficient to pay the premium and all accrued and unpaid interest on the Bonds so to be redeemed to the date so fixed for redemption.

If and when the Railroad Company shall so request by Certified Resolution filed with the Trustee, provided no Event of Default shall have occurred and then be continuing, any moneys at the time held under this Article XI by the Trustee shall be invested by it in such direct obligations of the United States of America maturing within 2 years as shall be speci-

fied in such Resolution. Such obligations shall be held by the Trustee in lieu of the moneys invested therein subject to its absolute right to liquidate such investment in such manner and at such time or times as, in the exercise of its discretion, it deems to be advisable. The Railroad Company covenants that upon demand by the Trustee it will replace all moneys lost through any investment made and liquidated as by this Section 7 contemplated, and will pay or reimburse the Trustee for all accrued interest, commissions and expense paid or incurred in connection with the acquisition and liquidation of such investment. The Trustee shall have the right and duty to receive all amounts paid on account of any investment made by it as hereby contemplated, including all interest payments, shall retain such interest payments pending liquidation of such investment, and after such liquidation shall retain so much of such interest payments as may be necessary to replace any loss of moneys suffered or to pay or reimburse itself for any accrued interest, commissions or expense paid or incurred in connection with the acquisition and liquidation of such investment and not replaced, paid or reimbursed by the Railroad Company as above provided, and shall pay over any balance of such interest payments to the Railroad Company.

SECTION 8. The Trustee shall not be required under any of the provisions of this Article XI to release any part of the property subject to the lien of the Mortgage from the lien hereof at any time when an Event of Default shall have occurred and be continuing; but, notwithstanding any such Event of Default, the Trustee may do so upon compliance by the Railroad Company with the provisions of Section 3 of this Article XI except clause (c)(5) of Part B of said Section 3, if the Trustee in its discretion shall deem that such release will not adversely affect the interests of the Bondholders, or if the holders of a majority in principal amount of the Outstanding Bonds shall request the Trustee so to do.

SECTION 9. In no event shall any purchaser or purchasers of any part of the mortgaged property sold or disposed of under any provisions of this Article XI be required to ascertain the authority of the Trustee to execute any release, to see to the application of the purchase money or to inquire as to any facts required by the provisions hereof for the exercise of such authority.

SECTION 10. Notwithstanding any of the provisions of the Mortgage, the Trustee shall release, either before or after an Event of Default shall have occurred, the lien of the Mortgage as to any property or properties or part or parts thereof at any time subject thereto, and cause such property or properties to revert to the Railroad Company free and clear of such lien; provided, however, that, prior to the release of any such property under this Section 10, there shall have been delivered to the Trustee in each case:

(a) a request (evidenced as provided in Section 1 of Article XIII) of the holders of not less than 75% in aggregate principal amount of all Outstanding Bonds, to release the property in question and the designation by such holders of the independent railroad expert referred to in subsection (c) below; or

(b) the record showing that the holders of not less than 85% in aggregate principal amount of all Outstanding Bonds represented at a Bondholders' Meeting, called and conducted pursuant to Article XIV hereof, at which not less than 50% in aggregate principal amount of all Outstanding Bonds were represented, requested the release of the property in question and designated the independent railroad expert referred to in subsection (c) below; and

(c) in either case, a report of the independent railroad expert designated pursuant to either subsection (a) or subsection (b) above, to the effect that such property is no longer of value to the holders of Outstanding Bonds and that, in his opinion, a proper allocation of revenues and expenses thereto then shows, and in the future may reasonably be expected to show, a loss.

such as may have arisen by its negligence or bad faith, and the payment of all taxes, assessments or liens prior to the lien of the Mortgage, except taxes, assessments and prior liens, if any, subject to which the property shall have been sold.

Second. To the payment of the whole amount then due and unpaid upon the Outstanding Bonds for principal and interest, with interest on the overdue principal at the highest rate of interest borne by any of the Outstanding Bonds, and in case such moneys shall be insufficient to pay in full the whole amount so due and unpaid upon the Outstanding Bonds, then to the payment of such principal and interest proportionately, according to the aggregate of such principal and accrued and unpaid interest, without preference or priority of any Outstanding Bond over any other Outstanding Bond of the same or of another series or of principal over interest, or of interest over principal, or of any instalment of interest over any other instalment of interest, subject, however, to the provisions of Section 1 of this Article XVI.

Third. To the payment of the surplus, if any, to the Railroad Company, its successors or assigns, or to whosoever may be lawfully entitled to receive the same, or as a court of competent jurisdiction may direct.

SECTION 12. In case of any sale under the foregoing provisions of this Article XVI, whether made under the power of sale hereby granted or pursuant to judicial proceedings, any purchaser, for the purpose of making settlement or payment for the property purchased, shall be entitled to use and apply any Bonds and any matured and unpaid coupons and interest obligations hereby secured, subject to the provisions of Section 1 of this Article XVI, by presenting such Bonds and coupons in order that there may be credited as paid thereon the sums payable out of the net proceeds of such sale to the holder or registered owner of such Bonds and coupons, as his propor-

tionate share of such net proceeds; and such purchaser shall be credited on account of the purchase price payable by him with the sums payable out of such net proceeds which shall be applicable to the payment of and which shall have been credited, upon the Bonds and coupons so presented; and, at any such sale, any Bondholder may bid for and purchase such property, and may make payment therefor as aforesaid, and, upon compliance with the terms of said sale, may hold, retain and dispose of such property without further accountability therefor.

SECTION 13. The Railroad Company covenants that (a) if default shall be made in the payment of any interest on any Outstanding Bonds, or (b) if default shall be made in the payment of the principal of any Outstanding Bonds, or the premium thereon payable on redemption thereof, when the same shall become due and payable, whether at the maturity of such Bonds, upon redemption, by declaration or by a sale of the mortgaged property, or otherwise, then, upon demand of the Trustee, the Railroad Company will pay to the Trustee for the benefit of the holders of such Bonds and coupons the whole amount then due and payable on such Bonds and coupons, for principal (and premium, if any) or interest, or both, as the case may be, with interest on the overdue principal at the highest rate of interest borne by any of the Outstanding Bonds; and in case the Railroad Company shall fail to pay the same forthwith upon such demand, the Trustee, in its own name and as Trustee of an express trust, shall be entitled to recover judgment for the whole amount so due and unpaid.

The Trustee shall be entitled to institute and prosecute any action and enforce any judgment or final decree as aforesaid, either before or after or during the pendency of any proceedings for the enforcement of the lien of the Mortgage, and

the right of the Trustee to such judgment or final decree shall not be affected by any entry or sale hereunder, or by the exercise of any other right, power or remedy for the enforcement of the provisions of the Mortgage or the foreclosure of the lien hereof; and in case of a sale of the mortgaged property or any part thereof, the Trustee, in its own name and as trustee of an express trust, shall be entitled to enforce payment of, and to receive, all amounts then remaining due and unpaid upon any and all of the Bonds and coupons, for the benefit of the holders thereof, and shall be entitled to institute and prosecute any action and enforce any judgment or final decree as aforesaid for any portion of the said debt remaining unpaid, with interest. No judgment or decree obtained by the Trustee, and no levy of any execution upon the mortgaged property, or upon any other property, shall in any manner, or to any extent, affect the lien of the Mortgage upon the mortgaged property, or any part thereof, or any lien, rights, powers or remedies of the Trustee hereunder, or any lien, rights, powers or remedies of the Bondholders, but such lien, rights, powers and remedies shall continue unimpaired as before, except as otherwise provided by law.

Any moneys collected by the Trustee under this Section 13 shall be applied by the Trustee,

First, to the payment of the costs and expenses of the proceedings resulting in the collection of such moneys, and of the compensation of and the expenses, liabilities and advances made or incurred by the Trustee hereunder, except such as may have arisen by its negligence or bad faith; and

Second, to the payment of the amounts then due and unpaid upon the Outstanding Bonds and coupons in respect of which such moneys shall have been collected, without any preference or priority of any kind, but subject to the provisions of Section 1 of this Article XVI,

proportionately according to the amounts due and payable upon such Outstanding Bonds and coupons, respectively, at the date fixed by the Trustee for distribution of such moneys, upon presentation of the several Outstanding Bonds and coupons and their surrender if fully paid, or for proper stamping if only partially paid.

SECTION 14. The Railroad Company will not at any time insist upon or plead, or claim to take advantage of any statute or rule of law, now or hereafter in force, wherever enacted or established, in aid of debtors or permitting or providing for (a) the staying of actions in respect of mortgages or mortgage indebtedness, or for extending the time for payment of such indebtedness; (b) the valuation or appraisal of the property held under any mortgage or pledge to secure indebtedness prior to any sale or sales thereof pursuant to the terms of such mortgage or pledge or to the decree, judgment or order of any court; or (c) the redemption of any property so sold; and the Railroad Company hereby expressly waives all benefit and advantage of any such statute or rule of law, and covenants that it will not hinder, delay or impede the execution of any power herein granted or delegated to the Trustee, but that it will suffer and permit the execution of every such power, as though no such statute or rule of law had been enacted or established.

SECTION 15. In case (1) an Event of Default shall occur and (a) at any time during the continuance of such Event of Default there shall be any existing judgment against the Railroad Company unsatisfied and unsecured by bond on appeal or (b) in any judicial proceeding by any party other than the Trustee, a receiver shall be appointed of the Railroad Company or of its property or any part thereof, or a judgment or order be entered for the sequestration of its property or any part thereof; or, in case (2) the Railroad

Company shall make default in the payment of interest specified in clause (a) of Section 2 of this Article XVI, and shall by resolution of its Board of Directors admit to the Trustee its inability to make good such default; then the Trustee, in either such case, shall thereupon be entitled, in the discretion of the Trustee, forthwith to exercise the right of entry herein conferred and also any and all other rights and powers herein conferred and provided to be exercised by the Trustee upon the happening and continuance of an Event of Default as hereinbefore provided; and the Trustee shall thereupon be entitled as a matter of right (i) to the appointment of a receiver of the mortgaged property and of the earnings, rents, issues, profits, tolls, revenues and income thereof, with such powers as the court making such appointment shall confer, and (ii) to the entry of an order directing that the rents, issues, profits, tolls, revenues and other income of the premises and property comprised in the mortgaged property be segregated, sequestered and impounded for the benefit of the Trustee and the Bondholders from and after the date of the institution of any judicial proceedings of the nature referred to in this Section 15 or in clauses (d) and (e) of Section 2 of this Article XVI. Notwithstanding the appointment of any such receiver, the Trustee, as pledgee, shall be entitled to retain possession and control of, and to collect all interest and dividends or earnings on, any shares of stock, cash, bonds and other obligations pledged with it as security hereunder.

The Railroad Company hereby irrevocably consents to the appointment of such receiver and to the entry of such order.

SECTION 16. Upon application of the Trustee to any court of competent jurisdiction, and with the consent of the Railroad Company if none of the Events of Default shall have occurred and be continuing, and without such consent if one or more of the Events of Default shall have occurred and be

continuing, a receiver may be appointed to take possession of, and to operate, maintain and manage the mortgaged property or any part thereof, and any other property of the Railroad Company used for, in or about, or the use or possession whereof shall be essential to, the operation of the mortgaged railroads or any thereof, and the Railroad Company shall transfer and deliver to such receiver all such property, wheresoever the same may be situated; and in every case when a receiver of the whole or of any part of said property shall be appointed under this Section 16, or otherwise, the net income and profits of the mortgaged property shall be paid over to, and shall be received by, the Trustee for the benefit of the holders of the Outstanding Bonds and coupons to be applied as provided in Section 2 of this Article XVI; provided, however, that, notwithstanding the appointment of any such receiver, the Trustee shall be entitled to retain control of, and to collect all interest and dividends or earnings on, any shares of stock, cash, bonds and other obligations pledged with it as security hereunder.

SECTION 17. No holder of any Bond or coupon shall have any right to institute any suit, action or proceeding in equity or at law for the foreclosure of the Mortgage, or for the execution of any trust hereunder, including the appointment of a receiver, or for any other remedy hereunder, unless (a) such holder previously shall have delivered to the Trustee written notice that one or more Events of Default, which default or defaults shall be specified in such notice, has occurred and is continuing, and (b) the holders of not less than 25% in principal amount of the then Outstanding Bonds shall have requested the Trustee in writing and shall have afforded to it reasonable opportunity either to proceed to exercise the powers hereinbefore granted, or to institute such action, suit or proceeding in its own name, and (c) one or more

holders of Bonds shall have offered to the Trustee adequate security and indemnity, satisfactory to it, against the costs, expenses and liabilities to be incurred therein or thereby, nor unless the Trustee shall have refused or neglected to act on such notification, request and offer of indemnity for at least 30 days; and such notification, request and offer of indemnity are hereby declared, in every such case, at the option of the Trustee, to be conditions precedent to the exercise of the powers and trusts of the Mortgage and to any action or cause of action for foreclosure, including the appointment of a receiver or trustee, or for any other remedy hereunder; it being understood and intended that no holder of any Bond or coupon shall have any right in any manner whatsoever by his action to affect, disturb or prejudice the lien of the Mortgage or to enforce any right hereunder, except in the manner herein provided, and that all proceedings at law or in equity shall be instituted, had or maintained in the manner herein provided, and for the equal benefit of all holders of the Outstanding Bonds and coupons.

Nothing contained in this Section 17 or elsewhere in the Mortgage or in the Bonds or in the coupon shall affect or impair the obligation of the Railroad Company, which is unconditional and absolute, to pay the principal of, premium, if any, and interest on the Bonds to the respective holders of the Bonds and to the respective holders of the coupons, as provided in such Bonds, nor affect or impair the right of action at law, which is also absolute and unconditional, of such holders to collect such payment.

SECTION 18. Except as herein expressly provided to the contrary, no remedy herein conferred upon or reserved to the Trustee or the Bondholders is intended to be exclusive of any other remedy or remedies, but each and every such remedy shall be cumulative, and shall be in addition to every other

remedy given hereunder, or now or hereafter existing at law or in equity or by statute.

SECTION 19. No delay of the Trustee or of any Bondholder in exercising any right or power accruing upon any default continuing as aforesaid and no omission to exercise any such right or power shall impair any such right or power or shall be construed to be a waiver of any such default, or an acquiescence therein; and every power and remedy given by this Article XVI to the Trustee, or to any Bondholder, may be exercised from time to time, and as often as may be deemed expedient, by the Trustee or by such Bondholder, respectively.

SECTION 20. The Trustee shall have power, but shall be under no duty, to institute and maintain suits or proceedings to restrain the enforcement of, or compliance with, or the observance of, any legislative or governmental enactment, rule or order that it may be advised and believe is unconstitutional, or otherwise invalid, if the enforcement of, or compliance with, or observance of, such enactment, rule or order would, in the judgment of the Trustee, impair the security hereunder or be prejudicial to the Trustee or to the Bondholders.

SECTION 21. The holders of a majority in aggregate principal amount of the Outstanding Bonds shall have the right to direct the time, method, and place of conducting any proceeding for any remedy available to the Trustee, or the exercise or non-exercise of any trust or power conferred on the Trustee. The holders of a majority in aggregate principal amount of the Outstanding Bonds may on behalf of the holders of all of the Bonds waive any past default hereunder and its consequences except an Event of Default specified in clauses (a) or (b) of Section 2 of this Article XVI. In the case of any such waiver, the Railroad Company, the Trustee

and the Bondholders shall be restored to their former positions and rights hereunder, respectively; but no such waiver shall extend to any subsequent or other default or impair any right consequent thereon.

SECTION 22. All parties to the Mortgage agree, and each holder of any Bond by his acceptance thereof shall be deemed to have agreed, that any court may in its discretion require, in any suit for the enforcement of any right or remedy under this Mortgage, or in any suit against the Trustee for any action taken or omitted by it as Trustee, the filing by any party litigant in such suit of an undertaking to pay the costs of such suit, and that such court may in its discretion assess reasonable costs, including reasonable attorneys' fees, against any party litigant in such suit, having due regard to the merits and good faith of the claims or defenses made by such party litigant; but the provisions of this Section 22 shall not apply to any suit instituted by the Trustee, to any suit instituted by any Bondholder or group of Bondholders holding more than 10% in aggregate principal amount of the Outstanding Bonds, or to any suit instituted by any Bondholder for the enforcement of the payment of the principal of or interest on any Bond, on or after the due date expressed in such Bond.

SECTION 23. To the extent that any provision of this Article XVI may be invalid or unenforceable under any applicable law with respect to any of the mortgaged property, such provision shall be deemed inoperative and inapplicable.

ARTICLE XVII

IMMUNITY OF INCORPORATORS, STOCKHOLDERS, DIRECTORS
AND OFFICERS

The Mortgage and the Bonds and coupons are solely corporate obligations. No recourse shall be had for the payment of the principal of or the interest on any Bond, or for any claim based thereon or on any coupon appurtenant thereto, or because of the creation of the indebtedness represented thereby, or otherwise in respect thereof, or based on or in respect of the Mortgage, against any past, present or future incorporator, stockholder, officer or director of the Railroad Company, as such, whether by virtue of any constitution, statute or rule of law or by the enforcement of any assessment or penalty or otherwise, all such liability, by the acceptance of such Bond and as part of the consideration for the issuance thereof, being expressly waived and released.

ARTICLE XVIII

DEFEASANCE

SECTION 1. If (a) the Railroad Company shall deliver to the Trustee for cancellation all Bonds and appurtenant coupons not theretofore cancelled and delivered to the Trustee, or (b) all Bonds not theretofore delivered to the Trustee cancelled or for cancellation shall have become due and payable, or are by their terms to become due and payable within 90 days or are to be redeemed within 90 days under arrangements satisfactory to the Trustee for the giving of notice of redemption, and the Railroad Company shall deposit with the Trustee as trust funds an amount sufficient to pay at maturity or upon redemption all of the Bonds not theretofore delivered to the Trustee cancelled or for cancellation, including the principal thereof, premium, if any, and the full amount of unpaid interest which has or will become due to such date of maturity or redemption, as the case may be, and if in either case the Railroad Company shall also pay or cause to be paid all other sums payable hereunder by the Railroad Company, then the Mortgage shall cease to be of further effect. In such event the Trustee, on demand of the Railroad Company and at its cost and expense, shall execute and deliver to the Railroad Company such instrument or instruments as may be appropriate to acknowledge satisfaction of the Mortgage, and as will enable the Railroad Company to have the Mortgage discharged of record, and shall release and assign, or cause to be released and assigned, to the Railroad Company all of its interest in the mortgaged property, and shall deliver to the Railroad Company or upon its order all securities and moneys then held by the Trustee under the provisions hereof other than the money deposited as above provided in this Article XVIII.

The Railroad Company, notwithstanding the satisfaction of the Mortgage as above provided, will indemnify the Trustee and hold it harmless against any and all expense or liability, incurred without negligence or bad faith, ascertained

or incurred by the Trustee after the satisfaction thereof arising out of or based upon any matter connected with the trust created by the Mortgage.

SECTION 2. All moneys deposited with the Trustee pursuant to Section 1 of this Article XVIII shall be held in trust and applied by it to the payment to the holders of the Bonds and coupons of all sums due and to become due thereon for principal and interest and premium, if any.

SECTION 3. Upon the satisfaction and discharge of the Mortgage, all moneys then held by any paying agent under any provision of the Mortgage shall be paid to the Trustee, and thereupon such paying agent shall be released from all further liability with respect to such moneys.

SECTION 4. Any moneys deposited by the Railroad Company with the Trustee or with any paying agent for the payment of the principal of, or the premium or interest on, any Bond which shall remain unclaimed by the holder of the Bond or coupon entitled to receive the same for 10 years after the date upon which the principal of such Bond shall have become due and payable (upon redemption or otherwise) shall be repaid to the Railroad Company on demand; and the holder of any Bond or coupon entitled to receive such payment shall thereafter look only to the Railroad Company for the payment thereof; provided, however, that (a) before any such repayment may be made, the Trustee, at the expense of the Railroad Company, shall cause to be published once a week for two successive calendar weeks (in each case on any day of the week) in a Daily Newspaper in the Borough of Manhattan, City of New York, New York, and in a Daily Newspaper in the City of Chicago, Illinois, a notice that said moneys have not been claimed and that after a date named therein any balance of said moneys then remaining will be returned to the Railroad Company, and (b) the amount of such repayment shall be limited to the balance of such moneys unclaimed at the close of business on such date.

ARTICLE XIX

SUPPLEMENTAL INDENTURES

SECTION 1. The Railroad Company, when authorized by a resolution of its Board of Directors, and the Trustee may from time to time and at any time enter into an indenture or indentures supplemental hereto for one or more of the following purposes:

(a) To convey, transfer and assign to the Trustee and subject to the lien of the Mortgage, with the same force and effect as though included in the granting clauses hereof, additional property then owned by the Railroad Company, acquired through consolidation, merger, purchase or otherwise;

(b) To evidence the succession of another corporation to the Railroad Company, or successive successions, and the assumption by the successor corporation of the covenants, agreements and obligations of the Railroad Company pursuant to Article XII;

(c) To set forth the terms and provisions of any series of Bonds to be issued hereunder and the form of the Bonds and coupons of such series;

(d) To add to the covenants of the Railroad Company such further covenants for the protection of the mortgaged property and the Bondholders as the Board of Directors and the Trustee shall consider to be for the protection of the Bondholders, and to make the occurrence and continuance of a default under any of such additional covenants a default permitting the enforcement of all or any of the several remedies provided in the Mortgage; provided, however, that in respect of any such additional covenant, such supplemental indenture may provide for a particular period of grace after default (which period may be shorter or longer than that allowed in the case of other defaults) or may provide for an immediate enforcement of said remedy or remedies upon

such default or may limit the remedies available to the Trustee upon such default or may authorize the holders of not less than a majority in aggregate principal amount of the Outstanding Bonds to waive such default and prescribe limitations on such rights of waiver; and

(e) To cure any ambiguity or to correct or supplement any provision contained in the Mortgage which may be defective or inconsistent with any other provision contained herein or in any supplemental indenture, or to make such other provisions in regard to matters or questions arising under the Mortgage as shall not be inconsistent with the provisions of the Mortgage and shall not adversely affect the interest of the Bondholders.

The Trustee is hereby authorized to join with the Railroad Company in the execution of any such supplemental indenture, to make any further appropriate agreements and stipulations which may be therein contained and to accept the conveyance, transfer and assignment of any property thereunder, but the Trustee shall not be obligated to enter into any such supplemental indenture which, in its opinion, affects the Trustee's own rights, duties or immunities under the Mortgage or otherwise.

Any supplemental indenture authorized by the provisions of this Section 1 may be executed by the Railroad Company and the Trustee without the consent of the holders of any of the then Outstanding Bonds, notwithstanding any of the provisions of Section 2 of this Article XIX.

SECTION 2. With the consent (evidenced as provided in Section 1 of Article XIII) of the holders of not less than 66⅔% in aggregate principal amount of the Outstanding Bonds to be directly affected thereby, and with the approval of the Interstate Commerce Commission or other public regulatory body having jurisdiction in the premises, the Railroad

ARTICLE XIV

BONDHOLDERS' MEETINGS

SECTION 1. The Trustee may at any time call a meeting of Bondholders to take any action specified in Section 1 of Article XIII, to be held at such time and at such place as the Trustee shall determine. Notice of every meeting of Bondholders, setting forth the time and place of such meeting and the action proposed to be taken at such meeting, shall be published at least once each week, for 4 successive weeks, in a Daily Newspaper in the Borough of Manhattan, City and State of New York, and in a Daily Newspaper in the City of Chicago, State of Illinois, the first publication in any such newspaper to be not less than 30 days nor more than 60 days prior to the date fixed for the meeting. A copy of such notice shall be mailed at least 30 days prior to the date fixed for the meeting to the registered holders of registered Bonds without coupons and of coupon Bonds registered as to principal at their last addresses as they shall appear upon the bond registry books, but neither failure to give such notice by mail nor any defect therein shall affect the validity of such meeting.

SECTION 2. In case at any time the Railroad Company pursuant to a resolution of its Board of Directors, or the holders of at least 10% in aggregate principal amount of the Outstanding Bonds, shall have requested the Trustee to call a meeting of Bondholders, by written request setting forth in reasonable detail the action proposed to be taken at the meeting, and the Trustee shall not have made the first publication of the notice of such meeting within 20 days after receipt of such request, then the Railroad Company or the holders of Outstanding Bonds in the amount above specified may determine the time and place for such meeting

and may call such meeting to take any action authorized in Section 1 of Article XIII, by publishing and mailing notice thereof as provided in Section 1 of this Article XIV.

SECTION 3. To be entitled to vote at any meeting of Bondholders a person shall be (a) a holder of coupon Bonds transferable by delivery, or (b) a registered holder of Bonds (whether the same be fully registered or registered only as to principal), or (c) a person appointed by an instrument in writing as proxy for a holder of coupon Bonds transferable by delivery or for a registered holder of Bonds (whether the same be fully registered or registered only as to principal). The only persons who shall be entitled to speak at any meeting of Bondholders shall be the persons entitled to vote at such meeting and their counsel and any representatives of the Trustee and its counsel and any representatives of the Railroad Company and its counsel.

SECTION 4. Notwithstanding any other provisions of the Mortgage, the Trustee may make such reasonable regulations as it may deem advisable for any meeting of Bondholders, in regard to proof of the holding of Bonds and of the appointment of proxies, and in regard to the appointment and duties of inspectors of votes, the submission and examination of proxies, certificates and other evidences of the right to vote, and such other matters concerning the conduct of the meeting as it shall deem advisable. Except as otherwise permitted or required by any such regulations, the holding of Bonds shall be proved in the manner specified in Section 2 of Article XIII, and the appointment of any proxy shall be proved in the manner specified in said Section 2 or by having the signature of the person executing the proxy witnessed or guaranteed by any bank, bankers or trust company authorized by said Section 2 to certify to the holding of Bonds transferable by delivery.

The Trustee shall, by an instrument in writing, appoint a temporary chairman of the meeting, unless the meeting shall have been called by the Railroad Company or by Bondholders as provided in Section 2 of this Article XIV, in which case the Railroad Company or the Bondholders calling the meeting, as the case may be, shall in like manner appoint a temporary chairman. A permanent chairman and a permanent secretary of the meeting shall be elected by vote of the holders of a majority in principal amount of Outstanding Bonds the holders of which shall be present or represented and entitled to vote at the meeting.

Subject to the provisions of Section 4 of Article XIII, at any meeting each Bondholder or proxy shall be entitled to one vote for each and every unit of the lowest principal amount of any of the Bonds then outstanding, in respect of which he is entitled to vote at the meeting; provided, however, that no vote shall be cast or counted at any meeting in respect of any Bond challenged as not outstanding and ruled by the chairman of the meeting to be not an Outstanding Bond. The chairman of the meeting shall have no right to vote other than by virtue of Outstanding Bonds held by him or instruments in writing as aforesaid duly designating him as the person to vote on behalf of other Bondholders.

SECTION 5. Any meeting of the Bondholders may be adjourned from time to time as and when, and to such time and place, as may be approved by a majority of the votes which the holders of Bonds at the time present or represented may be entitled to cast, irrespective of the aggregate principal amount of Bonds held by such holders; and the meeting may be held as so adjourned without further notice.

SECTION 6. The vote upon any proposal submitted at a meeting of Bondholders shall be by written ballots on which

Company, when authorized by a resolution of its Board of Directors, and the Trustee at any time and from time to time, by entering into an indenture or indentures supplemental hereto may:

(a) modify, alter, add to or eliminate any of the provisions of the Mortgage or the rights of the holders of the Bonds and coupons to be directly affected thereby or the rights and obligations of the Railroad Company, except as provided in Section 3 of this Article XIX;

(b) sanction any compromise of the rights of the holders of such Bonds against the Railroad Company or against its property whether such right shall arise under the provisions of the Mortgage or otherwise;

(c) sanction and approve any plan for the reorganization, readjustment or liquidation of the Railroad Company;

provided, however, that no such modification, alteration, addition, elimination, sanction or approval shall, without in each case the consent of the holders of all Bonds affected thereby,

(i) alter or impair the obligation of the Railroad Company to pay the principal amount of or the interest on any Bonds, or change the place or medium of payment thereof; or

(ii) permit the creation by the Railroad Company of any mortgage or other lien ranking prior to or on a parity with the lien of the Mortgage with respect to any property covered thereby except as in the Mortgage otherwise expressly provided; or

(iii) effect a reduction of the percentage required for any action authorized to be taken by the holders of the Bonds;

and provided further that no such modification, alteration, addition or elimination shall affect the rights, duties or im-

munities of the Trustee without the written consent of the Trustee.

It shall not be necessary for the consent of the Bondholders under this Section 2 to approve the particular form of any proposed supplemental indenture, but it shall be sufficient if such consent shall approve the substance thereof.

SECTION 3. With the consent (evidenced as provided in Section 1 of Article XIII) of the holders of not less than 75% in aggregate principal amount of all of the then Outstanding Bonds, and with the approval of the Interstate Commerce Commission or other public regulatory body having jurisdiction in the premises, the Railroad Company, when authorized by a resolution of its Board of Directors, and the Trustee at any time and from time to time by entering into an indenture or indentures supplemental hereto, may:

(a) extend the time or times of payment of the principal, either before or after the principal is due, of the Bonds of any or all series which at the time shall be outstanding, whether bearing fixed or contingent interest, for a period of not exceeding 20 years beyond the original date or dates designated in such Bonds for the payment of the principal thereof, or

(b) extend the time or times of payment of any fixed interest or accumulations of contingent interest, either before or after the interest is due, on the Bonds of any or all series which at the time shall be outstanding, whether bearing fixed or contingent interest, for a period of not exceeding 5 years after such interest is due, but in no event beyond the original or extended date or dates for the payment of the principal of such Bonds.

SECTION 4. Upon the request of the Railroad Company, accompanied by a Certified Resolution authorizing the execution of any supplemental indenture pursuant to the preceding

Sections of this Article XIX, and upon the filing with the Trustee of evidence of the consent of Bondholders as aforesaid, the Trustee shall join with the Railroad Company in the execution of such supplemental indenture.

SECTION 5. Upon the execution of any supplemental indenture pursuant to the provisions of this Article XIX, the Mortgage shall be and be deemed to be modified and amended in accordance therewith and the respective rights, duties and obligations under the Mortgage of the Railroad Company, the Trustee and the holders of Bonds of all series outstanding thereunder shall thereafter be determined, exercised and enforced hereunder subject in all respects to such modifications and amendments, and all the terms and conditions of any such supplemental indenture shall be and be deemed to be part of the terms and conditions of the Mortgage for any and all purposes.

SECTION 6. Bonds authenticated and delivered after the execution of any supplemental indenture pursuant to the provisions of this Article XIX may bear a notation in form approved by the Trustee as to any matter provided for in such supplemental indenture. If the Railroad Company or the Trustee shall so determine, new Bonds so modified as to conform, in the opinion of the Trustee and the Board of Directors, to any modification of the Mortgage contained in any such supplemental indenture may be prepared by the Railroad Company, authenticated by the Trustee and delivered without expense to the holders of Bonds of the same series then outstanding, upon surrender of such Bonds accompanied, in the case of coupon Bonds, by all unmatured coupons and all unpaid matured coupons which shall be appurtenant thereto, the new Bonds so issued to be of an aggregate principal amount equal to the aggregate principal amount of those so surrendered.

ARTICLE XX

MISCELLANEOUS

SECTION 1. The same officer or officers of the Railroad Company, or the same engineer, accountant or counsel or other person, as the case may be, need not certify to all the matters required to be certified under the provisions of any Article or Section of the Mortgage, but different officers, engineers, accountants, counsel or other persons may certify to different matters respectively.

SECTION 2. Each Officers' Certificate or Opinion of Counsel required to be given responsive to a specified condition or covenant provided for in the Mortgage shall include: (1) a statement that the person making such certificate or giving such opinion has read such covenant or condition; (2) a statement that, in the opinion of such person, he has made such examination or investigation as is necessary to enable him to express an informed opinion as to whether or not such covenant or condition has been complied with; and (3) a statement as to whether or not, in the opinion of such person, such condition or covenant has been complied with.

SECTION 3. Except as otherwise expressly provided herein, nothing in the Mortgage or in any of the Bonds or coupons, express or implied, is intended or shall be construed to confer upon or give to any person, firm or corporation other than the parties hereto and the holders from time to time of the Bonds or coupons issued under the Mortgage any security, right, remedy or claim, legal or equitable, under or by reason of the Mortgage, or under or by reason of any covenant, condition or stipulation herein contained; and the Mortgage and all covenants, conditions and provisions herein contained are and shall be held to be for the sole and ex-

clusive benefit of the parties hereto and the holders from time to time of the Bonds and coupons issued hereunder.

SECTION 4. The Railroad Company shall be entitled to obtain from the Trustee from time to time such certificates and statements of the latter as to matters related to the Mortgage which are within its knowledge as the Railroad Company shall find it necessary or advisable to file with the trustee of the General Mortgage for any of the purposes thereof.

SECTION 5. The Mortgage may be executed in any number of counterparts, each of which shall be an original; but such counterparts shall together constitute but one and the same instrument.

SECTION 6. The Mortgage is dated as of January 1, 1944, although executed and delivered on the date of the acknowledgment hereof by the Trustee; and the same shall be effective by order of the Court in the reorganization proceedings hereinbefore mentioned as of 12:01 A.M., Central Standard Time, on December 1, 1945.

IN WITNESS WHEREOF, CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY, the party of the first part, has caused the Mortgage to be signed and acknowledged by its President or one of its Vice Presidents, and its corporate seal to be affixed hereunto, and the same to be attested by its Secretary or its Assistant Secretary; and Continental Illinois National Bank and Trust Company of Chicago, the party of the second part, to evidence its acceptance of the trust hereby created, has caused the Mortgage to be signed and acknowledged by one of its Vice Presidents and its corporate seal to be affixed hereunto and the same to be attested by one of its Assistant Secretaries. Executed and delivered in the City

of Chicago, State of Illinois, the 4th day of December, 1945,
as of the day and year first written above.

CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC
RAILROAD COMPANY

By H. A. SCANDRETT
(CORPORATE SEAL) *President*

Attest:

T. W. BURTNESSE
Secretary

In the presence of

RAY GARRETT
WILLARD P. SCOTT

CONTINENTAL ILLINOIS NATIONAL BANK AND
TRUST COMPANY OF CHICAGO

By F. E. MUSGROVE
(CORPORATE SEAL) *Vice President*

Attest:

V. P. NELSON
Assistant Secretary

In the presence of

E. J. FRIEDRICH
PAUL B. ROBB

of further assurance, which, as set forth in the Opinion of Counsel furnished pursuant to clause (h) of this Part B, are stated to be necessary or advisable to subject to the lien of the Mortgage any property constituting Additions and Betterments included in the Officers' Certificate filed with the Trustee pursuant to clause (c) of this Part B, or, in the case of Additions and Betterments located on leaseholds, to subject the leaseholds to such lien;

(g) An Engineer's Certificate stating the fair value to the Railroad Company of the property a release of which is requested;

(h) An Opinion of Counsel to the effect that:

(1) any purchase money obligations pledged with the Trustee, or with the trustee or mortgagee of any Prior Lien as permitted by Section 4 of this Article XI, have been validly issued; that the assignments, supplemental indentures or other instruments delivered to the Trustee pursuant to clause (f) of this Part B duly assign to the Trustee subject to such lien, or otherwise render subject to the lien of the Mortgage, such purchase money obligations, or that no such instruments are required for such purpose; and that such purchase money obligations are secured by a valid lien upon the property released subject to no liens prior or equal to the lien thereof, except any liens which were Permitted Encumbrances on the property released and except any Prior Lien to which the property released was subject; and

(2) the property constituting Additions and Betterments specified in the Officers' Certificate filed with the Trustee pursuant to clause (c) of this Part B, except such as are located on leaseholds, is subject to the lien of the Mortgage or will become subject to such lien upon the delivery and recording or filing of the deeds, supplemental indentures, or instruments of further assurance, if any, specified in said Opinion of Counsel, subject to no defect in title and subject to no lien thereon prior or equal to the lien of the Mortgage, except Permitted Encumbrances, if any, and if any such property is located on any lease-

hold, as shown by the Application, that such leasehold is subject to the lien of the Mortgage, or will become subject to such lien upon the delivery and recording or filing of the deeds, supplemental indentures or instruments of further assurance, if any, specified in said Opinion of Counsel, and extends for a period of time not less than 10 years beyond the latest maturity date of any Bonds then outstanding, or that, under the terms of such leasehold, the Railroad Company has the right to be reimbursed in respect of the Cost of such Additions and Betterments or the right to remove the same upon the termination of such leasehold and that all of the Railroad Company's interest in such leasehold (except the last day of the term thereof), including any such right of reimbursement, has been pledged with the Trustee; provided that such Opinion of Counsel may recite that it is based upon certificates or opinions of officers or engineers of the Railroad Company as to any matters of fact not of public record.

SECTION 4. If, under the provisions of any Prior Lien on any part of property to be released from the Mortgage, there is required to be made with or to the trustee or mortgagee under such lien a deposit of cash or pledge of purchase money obligations in order to obtain a release therefrom of such part of the property subject to the Mortgage, the Railroad Company shall not be required to deposit or pledge with the Trustee such cash or purchase money obligations to the extent that the Railroad Company shall deposit such cash and pledge such purchase money obligations with the trustee or mortgagee of such lien.

SECTION 5. Should any part of the property subject to the lien of the Mortgage be taken by the exercise of the power of eminent domain or should any governmental body at any time exercise any right which it may have to require the sale to it or to a purchaser designated by it of any part of the property subject to the lien of the Mortgage, the Trustee, upon request

Railroad Company shall be deposited and pledged with the Trustee.

(d) The Trustee shall be furnished with an Opinion of Counsel stating that (1) such sale is in accordance with the provisions of the Mortgage, (2) the Trustee is authorized under the terms of the Mortgage to comply with the request of the Railroad Company in consummation of the sale, (3) any purchase money obligations mentioned in the Certificate provided for in subdivision (b) of this Section 12 are valid obligations, secured by a valid and enforceable pledge of the Securities to be sold, free and clear of prior liens, (4) such pledge contains appropriate provision for the security and protection of the Bonds, and (5) all necessary consent or approval of all governmental authorities for the sale and acquisition of such Securities has been obtained or that no such consent or approval is necessary; and said opinion shall be accompanied by a certified copy of any such consent or approval specified in said opinion to be necessary.

(e) The Trustee shall be furnished with a Certified Resolution authorizing the sale of the Securities mentioned in the Certificate provided for in subdivision (b) of this Section 12, and requesting the release thereof from the lien of the Mortgage.

Upon receipt by the Trustee of the instruments mentioned in subdivisions (b), (d) and (e) of this Section 12, and the consideration to be received by the Railroad Company as therein stated, the Trustee shall release from the lien of the Mortgage, and deliver to or upon the written order of the Railroad Company, all Securities so to be sold at the time held by the Trustee.

SECTION 13. In case an Event of Default shall have occurred and be continuing, the Railroad Company may do any

of the things authorized to be done by it in Sections 2, 3, 5, 7, 8 and 12 of this Article X upon compliance by it with the respective provisions of said sections, if the Trustee, in the exercise of its discretion, in writing expressly authorizes or assents to such action. The Trustee shall so authorize or assent to such action if requested by the holders of a majority in principal amount of the Outstanding Bonds.

SECTION 14. All moneys received by the Trustee in respect of any Securities deposited and pledged hereunder, unless the Railroad Company shall be entitled to receive the same under the provisions of Section 2 of this Article X, shall be held, paid out or applied by it as in the case of money deposited upon the release of mortgaged property, in the manner provided in Section 7 of Article XI.

SECTION 15. The Railroad Company covenants and agrees that forthwith on demand of the Trustee it will pay, or will provide for in a manner satisfactory to the Trustee, all expenditures incurred by the Trustee under any of the provisions of this Article X, including all sums required to obtain and perfect the ownership and title to any property which the Trustee shall cause or authorize to be purchased pursuant to any provision of this Article X; and the Trustee in its discretion, without impairment of or prejudice to any of its rights under the Mortgage by reason of any default of the Railroad Company, may but shall not be obligated to advance any or all such expenses and such other moneys as may be required, or may procure such advances to be made by others, and for such advances made by the Trustee or by others at its request, with interest thereon at the rate of 4% per annum, the Trustee shall have a lien upon the mortgaged property in priority to the lien of the Bonds, except as to funds held in trust for the benefit of the holders of particular Bonds or coupons.

ARTICLE XI

POSSESSION, USE AND RELEASE OF PROPERTY

SECTION 1. While the Railroad Company shall remain in possession of the mortgaged property, it shall be entitled to manage, operate, use and enjoy all and singular the property subject to the Mortgage (except any cash or Securities deposited or pledged or required to be deposited or pledged with the Trustee under the terms of the Mortgage) and to receive, take and use the rents, incomes and profits thereof subject to the terms of the Mortgage. The subsequent provisions of this Section 1 are for the purpose of permitting the advantageous use of the property subject to the Mortgage in the operation and management of the business so as most judiciously to maintain the value of such property of the Railroad Company and the value of the security for the Bonds.

PART A. While remaining in possession of the mortgaged property, the Railroad Company shall be entitled in the usual and ordinary conduct of its business:

(a) to alter, repair, dismantle when no longer useful, replace, change and add to its buildings, roadways, trackage, Equipment, materials, supplies and any other physical property;

(b) to make any change in the location of its lines, tracks, station houses, buildings or other structures situated upon or comprising any part of the property subject to the Mortgage to other premises, if said lines, tracks, station houses, buildings, structures and the premises whereon they shall be relocated shall be or concurrently become subject to the lien of the Mortgage to the same extent and with the same priority of lien as before such relocation; and

(c) to modify the rights under, or to abandon or terminate, any trackage, terminal, operating or other contract, agree-

ment or lease, easement, franchise, license, authority or permit under which the Railroad Company may now or hereafter conduct its railroad operations; provided, in the case of any modification, that the same does not substantially impair the rights of the Railroad Company in its railroad operations, shorten the term of any leasehold on which are located Additions and Betterments which have been Bonded or Otherwise Financed, or in the judgment of the Railroad Company impair the security or interests of the Bondholders, and in the case of any abandonment or termination, that such rights are no longer required for the railroad operations of the Railroad Company, and that rights of operation, substantially equivalent as to scope and term, are otherwise owned or are concurrently to be acquired and subjected to the lien of the Mortgage to the same extent and with the same priority of lien as existed prior to the modification, abandonment or termination.

PART B. To increase operating efficiency and effect economies by elimination of unnecessary trackage or unnecessary duplication of trackage within its own transportation system which is subject to the lien of the Mortgage, and by facilitating the coordination of operations of such transportation system with operations of the transportation systems of other railroads, the Railroad Company, while remaining in possession of the mortgaged property, may, under the conditions and upon compliance with the provisions of Sections 2 and 3 of this Article XI to the extent applicable:

(a) Sell, exchange for other property, abandon, lease or otherwise dispose of any part, substantially less than all, of its lines of railroad (including any leasehold, easement, trackage right or other interest therein) subject to the lien of the Mortgage, but only if, at or prior to such sale, exchange, abandonment, lease or other disposition,

(1) there shall be filed with the Trustee a Certified Resolution determining and expressing the judgment of the Board of Directors that

- (i) such sale, exchange, abandonment, lease or other disposition will increase operating efficiency and effect economies by elimination of unnecessary trackage or unnecessary duplication of trackage within the Railroad Company's own transportation system then subject to the lien of the Mortgage, or by facilitating the coordination of operations of such transportation system with operations of the transportation systems of other railroads, and will not substantially impair the ability of the Railroad Company to handle the traffic of its transportation system, and
- (ii) that the property so to be sold, exchanged, abandoned, leased or otherwise disposed of is no longer deemed necessary or expedient in the operation of its transportation system and that the security or interests of the Bondholders will not be impaired thereby; and

(2) there shall also be filed with the Trustee, as to any part of such lines of railroad (including any leasehold, trackage right or other interest therein) desired to be sold, exchanged, abandoned, leased or otherwise disposed of, an Officers' Certificate stating and setting forth the facts relied upon to show that

- (i) such part of said lines of railroad is a branch or spur line, or is otherwise so separable from any main line serving principal points, that such sale, exchange, abandonment, lease or other disposition will not break the continuity of such main line between the principal points served thereby, or

- (ii) after said sale, exchange, abandonment, lease or other disposition there will remain at least one other route subject to the lien of the Mortgage between the principal points served by the part of such line to be sold, exchanged, abandoned, leased or otherwise disposed of, over which the traffic of its transportation system between such principal points may be handled with substantially equal facility, or
 - (iii) the Railroad Company has acquired, or upon such sale, exchange, abandonment, lease or other disposition will acquire, rights over lines of another railroad company through joint ownership, lease or trackage agreement whereby facilities will be available for general continuity of operation of its transportation system which are substantially equivalent to the facilities therefor of the lines of railroad to be sold, exchanged, abandoned, leased or otherwise disposed of, and that any such lease or trackage agreement, as evidenced by an Opinion of Counsel furnished to the Trustee, will extend at least beyond the latest date of maturity of any of the Bonds then outstanding and will not be subject to termination prior to its expiration date on account of any lien on the property covered thereby; and
- (3) there shall be pledged with the Trustee or otherwise subjected to the lien of the Mortgage, subject only to Permitted Encumbrances, in such manner as shall be deemed sufficient in an Opinion of Counsel furnished to the Trustee, any and all rights of joint ownership, leases, and trackage agreements acquired by the Railroad Company and referred to in such Officers' Certificate pursuant to the preceding clause (2) (iii).

Any lease of property of the Railroad Company made pursuant to this subdivision (a) shall be made expressly subject to immediate termination by the Trustee at any time upon the occurrence of an Event of Default and at any time during the continuance thereof, and also by the purchaser of the property so leased upon any sale thereof, whether such sale be made under the power of sale hereby conferred or under judicial proceedings.

Notwithstanding the foregoing provisions of this Part B, any line or portion of a line of railroad (including any leasehold, easement, trackage right or other interest therein) subject to the lien of the Mortgage may be released, sold, exchanged, abandoned, leased or otherwise disposed of upon compliance solely with the provisions of clause (1) of this subdivision (a), if such release, sale, exchange, abandonment, lease or other disposition is with the approval or direction of the holders of a majority of all Outstanding Bonds, such approval or direction being made and evidenced pursuant to the provisions of Article XIII and filed with the Trustee.

(b) Sell, exchange or otherwise dispose of an undivided interest in any part of any line of railroad, or in any bridge or terminal, which is subject to the lien of the Mortgage, or grant an easement over, or enter into a trackage agreement providing for the use by another railroad of, any such line of railroad, or bridge or terminal, with or without use of appurtenant shop or other operating and service facilities; and any such easement or trackage right may, but need not, extend for a longer period than the latest maturity of any of the Bonds then outstanding, and may, but need not, be subject to termination by the Trustee upon the occurrence or during the continuance of any Event of Default, or by the pur-

chaser of any property to which the same relates upon any sale thereof by virtue of the power of sale hereby conferred or under judicial proceedings; but in the case of each such sale, exchange or other disposition of an undivided interest or in case any such easement or trackage right shall extend for a longer period, as aforesaid, or is not subject to termination, as aforesaid, then at or prior thereto

(1) there shall be furnished to the Trustee an Opinion of Counsel that there has been adequately preserved to the Railroad Company the equal or prior right to the use of any such line of railroad, bridge, or terminal in which an undivided interest has been disposed of or as to which an easement or trackage right has been so granted, and to appurtenant facilities, if any, as to which a right of use has been so granted, and

(2) there shall be filed with the Trustee a Certified Resolution determining and expressing the judgment of the Board of Directors, in the case of any such sale, exchange or other disposition, that the same is advantageous to the economical and efficient operation of the business of the Railroad Company, or, in the case of any such easement or trackage right agreement, that the terms thereof are reasonable and advantageous to the economical and efficient operation of the business of the Railroad Company and, in either case, that such transaction will not substantially impair the ability of the Railroad Company to handle the traffic of its transportation system subject only to the lien of the Mortgage and Permitted Encumbrances at or between the principal points served thereby nor impair the security or interests of the Bondholders.

In case an easement over, or a trackage agreement providing for the use by another railroad of, any part of

any line of railroad or in any bridge or terminal shall be granted by the Railroad Company for a longer period than the latest maturity of any of the Bonds then outstanding or not be subject to termination by the Trustee upon the occurrence or during the continuance of any Event of Default or by the purchaser of any property to which the same relates upon any sale thereof by virtue of the power of sale hereby conferred or under judicial proceedings, the Trustee shall, at the request of the Railroad Company and upon receiving the Opinion of Counsel and Certified Resolution with respect thereto as provided in this subdivision (b), execute and deliver a certificate or consent to the granting of such easement or trackage agreement.

Any principal point which is the terminus of any line of railroad of the Railroad Company subject to the lien of the Mortgage shall cease to be a principal point if, for a period of 5 successive years after the date of the Mortgage, traffic over the line, or a portion thereof serving such point designated as provided in the following sentence, has been such that the operation by the Railroad Company of such line or such designated portion, as the case may be, has been without profit during the whole of such period. Upon filing with the Trustee of an Officers' Certificate designating any such principal point and the line serving such point, or a specified portion thereof, and showing facts with respect to traffic and operation of such line or such specified portion thereof, as the case may be, fulfilling to the satisfaction of the Trustee the requirements of this paragraph, together with a Certified Resolution expressing the judgment of the Board of Directors that the principal point described in said Certificate is in fact no longer a prin-

principal point in the operation of such lines of railroad, then said principal point shall no longer be deemed or treated as a principal point on such line for any purpose under the provisions of this Part B.

The provisions and limitations of this Part B shall govern any sale by the Railroad Company, pursuant to the provisions of Article X, of the securities of any Railroad Subsidiary owning a connecting line of railroad or bridge which forms a part of the transportation system of the Railroad Company, and any sale, exchange or other disposition by any Railroad Subsidiary, pursuant to the provisions of Article X, of property of such Railroad Subsidiary, to the same extent as though the property owned by such Railroad Subsidiary were owned by the Railroad Company.

PART C. In case any line of railroad (including any leasehold, easement, trackage right or other interest therein) subject to the lien of the Mortgage is desired to be abandoned, prior to any such abandonment there shall be furnished to the Trustee, in addition to all other requirements of this Section 1, an Opinion of Counsel stating that any requisite approval of the Interstate Commerce Commission or other governmental authority having jurisdiction in the premises has been obtained for such abandonment and said Opinion of Counsel shall be accompanied by a certified copy of the order, if any, expressed to be so required.

SECTION 2. Except as hereinafter specifically provided in this Section 2, the Railroad Company while remaining in possession of the mortgaged property may, without obtaining a release from, action by or giving notice to the Trustee and without other action or proceeding on the part of the Railroad Company hereunder:

Company, when authorized by a resolution of its Board of Directors, and the Trustee at any time and from time to time, by entering into an indenture or indentures supplemental hereto may:

(a) modify, alter, add to or eliminate any of the provisions of the Mortgage or the rights of the holders of the Bonds and coupons to be directly affected thereby or the rights and obligations of the Railroad Company, except as provided in Section 3 of this Article XIX;

(b) sanction any compromise of the rights of the holders of such Bonds against the Railroad Company or against its property whether such right shall arise under the provisions of the Mortgage or otherwise;

(c) sanction and approve any plan for the reorganization, readjustment or liquidation of the Railroad Company;

provided, however, that no such modification, alteration, addition, elimination, sanction or approval shall, without in each case the consent of the holders of all Bonds affected thereby,

(i) alter or impair the obligation of the Railroad Company to pay the principal amount of or the interest on any Bonds, or change the place or medium of payment thereof; or

(ii) permit the creation by the Railroad Company of any mortgage or other lien ranking prior to or on a parity with the lien of the Mortgage with respect to any property covered thereby except as in the Mortgage otherwise expressly provided; or

(iii) effect a reduction of the percentage required for any action authorized to be taken by the holders of the Bonds;

and provided further that no such modification, alteration, addition or elimination shall affect the rights, duties or im-

munities of the Trustee without the written consent of the Trustee.

It shall not be necessary for the consent of the Bondholders under this Section 2 to approve the particular form of any proposed supplemental indenture, but it shall be sufficient if such consent shall approve the substance thereof.

SECTION 3. With the consent (evidenced as provided in Section 1 of Article XIII) of the holders of not less than 75% in aggregate principal amount of all of the then Outstanding Bonds, and with the approval of the Interstate Commerce Commission or other public regulatory body having jurisdiction in the premises, the Railroad Company, when authorized by a resolution of its Board of Directors, and the Trustee at any time and from time to time by entering into an indenture or indentures supplemental hereto, may:

(a) extend the time or times of payment of the principal, either before or after the principal is due, of the Bonds of any or all series which at the time shall be outstanding, whether bearing fixed or contingent interest, for a period of not exceeding 20 years beyond the original date or dates designated in such Bonds for the payment of the principal thereof, or

(b) extend the time or times of payment of any fixed interest or accumulations of contingent interest, either before or after the interest is due, on the Bonds of any or all series which at the time shall be outstanding, whether bearing fixed or contingent interest, for a period of not exceeding 5 years after such interest is due, but in no event beyond the original or extended date or dates for the payment of the principal of such Bonds.

SECTION 4. Upon the request of the Railroad Company, accompanied by a Certified Resolution authorizing the execution of any supplemental indenture pursuant to the preceding

Sections of this Article XIX, and upon the filing with the Trustee of evidence of the consent of Bondholders as aforesaid, the Trustee shall join with the Railroad Company in the execution of such supplemental indenture.

SECTION 5. Upon the execution of any supplemental indenture pursuant to the provisions of this Article XIX, the Mortgage shall be and be deemed to be modified and amended in accordance therewith and the respective rights, duties and obligations under the Mortgage of the Railroad Company, the Trustee and the holders of Bonds of all series outstanding thereunder shall thereafter be determined, exercised and enforced hereunder subject in all respects to such modifications and amendments, and all the terms and conditions of any such supplemental indenture shall be and be deemed to be part of the terms and conditions of the Mortgage for any and all purposes.

SECTION 6. Bonds authenticated and delivered after the execution of any supplemental indenture pursuant to the provisions of this Article XIX may bear a notation in form approved by the Trustee as to any matter provided for in such supplemental indenture. If the Railroad Company or the Trustee shall so determine, new Bonds so modified as to conform, in the opinion of the Trustee and the Board of Directors, to any modification of the Mortgage contained in any such supplemental indenture may be prepared by the Railroad Company, authenticated by the Trustee and delivered without expense to the holders of Bonds of the same series then outstanding, upon surrender of such Bonds accompanied, in the case of coupon Bonds, by all unmatured coupons and all unpaid matured coupons which shall be appurtenant thereto, the new Bonds so issued to be of an aggregate principal amount equal to the aggregate principal amount of those so surrendered.

ARTICLE XX

MISCELLANEOUS

SECTION 1. The same officer or officers of the Railroad Company, or the same engineer, accountant or counsel or other person, as the case may be, need not certify to all the matters required to be certified under the provisions of any Article or Section of the Mortgage, but different officers, engineers, accountants, counsel or other persons may certify to different matters respectively.

SECTION 2. Each Officers' Certificate or Opinion of Counsel required to be given responsive to a specified condition or covenant provided for in the Mortgage shall include: (1) a statement that the person making such certificate or giving such opinion has read such covenant or condition; (2) a statement that, in the opinion of such person, he has made such examination or investigation as is necessary to enable him to express an informed opinion as to whether or not such covenant or condition has been complied with; and (3) a statement as to whether or not, in the opinion of such person, such condition or covenant has been complied with.

SECTION 3. Except as otherwise expressly provided herein, nothing in the Mortgage or in any of the Bonds or coupons, express or implied, is intended or shall be construed to confer upon or give to any person, firm or corporation other than the parties hereto and the holders from time to time of the Bonds or coupons issued under the Mortgage any security, right, remedy or claim, legal or equitable, under or by reason of the Mortgage, or under or by reason of any covenant, condition or stipulation herein contained; and the Mortgage and all covenants, conditions and provisions herein contained are and shall be held to be for the sole and ex-

clusive benefit of the parties hereto and the holders from time to time of the Bonds and coupons issued hereunder.

SECTION 4. The Railroad Company shall be entitled to obtain from the Trustee from time to time such certificates and statements of the latter as to matters related to the Mortgage which are within its knowledge as the Railroad Company shall find it necessary or advisable to file with the trustee of the General Mortgage for any of the purposes thereof.

SECTION 5. The Mortgage may be executed in any number of counterparts, each of which shall be an original; but such counterparts shall together constitute but one and the same instrument.

SECTION 6. The Mortgage is dated as of January 1, 1944, although executed and delivered on the date of the acknowledgment hereof by the Trustee; and the same shall be effective by order of the Court in the reorganization proceedings hereinbefore mentioned as of 12:01 A.M., Central Standard Time, on December 1, 1945.

IN WITNESS WHEREOF, CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY, the party of the first part, has caused the Mortgage to be signed and acknowledged by its President or one of its Vice Presidents, and its corporate seal to be affixed hereunto, and the same to be attested by its Secretary or its Assistant Secretary; and Continental Illinois National Bank and Trust Company of Chicago, the party of the second part, to evidence its acceptance of the trust hereby created, has caused the Mortgage to be signed and acknowledged by one of its Vice Presidents and its corporate seal to be affixed hereunto and the same to be attested by one of its Assistant Secretaries. Executed and delivered in the City

of Chicago, State of Illinois, the 4th day of December, 1945,
as of the day and year first written above.

CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC
RAILROAD COMPANY

By H. A. SCANDRETT
(CORPORATE SEAL) *President*

Attest:

T. W. BURTNESSE
Secretary

In the presence of

RAY GARRETT
WILLARD P. SCOTT

CONTINENTAL ILLINOIS NATIONAL BANK AND
TRUST COMPANY OF CHICAGO

By F. E. MUSGROVE
(CORPORATE SEAL) *Vice President*

Attest:

V. P. NELSON
Assistant Secretary

In the presence of

E. J. FRIEDRICH
PAUL B. ROBB

of further assurance, which, as set forth in the Opinion of Counsel furnished pursuant to clause (h) of this Part B, are stated to be necessary or advisable to subject to the lien of the Mortgage any property constituting Additions and Betterments included in the Officers' Certificate filed with the Trustee pursuant to clause (c) of this Part B, or, in the case of Additions and Betterments located on leaseholds, to subject the leaseholds to such lien;

(g) An Engineer's Certificate stating the fair value to the Railroad Company of the property a release of which is requested;

(h) An Opinion of Counsel to the effect that:

(1) any purchase money obligations pledged with the Trustee, or with the trustee or mortgagee of any Prior Lien as permitted by Section 4 of this Article XI, have been validly issued; that the assignments, supplemental indentures or other instruments delivered to the Trustee pursuant to clause (f) of this Part B duly assign to the Trustee subject to such lien, or otherwise render subject to the lien of the Mortgage, such purchase money obligations, or that no such instruments are required for such purpose; and that such purchase money obligations are secured by a valid lien upon the property released subject to no liens prior or equal to the lien thereof, except any liens which were Permitted Encumbrances on the property released and except any Prior Lien to which the property released was subject; and

(2) the property constituting Additions and Betterments specified in the Officers' Certificate filed with the Trustee pursuant to clause (c) of this Part B, except such as are located on leaseholds, is subject to the lien of the Mortgage or will become subject to such lien upon the delivery and recording or filing of the deeds, supplemental indentures, or instruments of further assurance, if any, specified in said Opinion of Counsel, subject to no defect in title and subject to no lien thereon prior or equal to the lien of the Mortgage, except Permitted Encumbrances, if any, and if any such property is located on any lease-

hold, as shown by the Application, that such leasehold is subject to the lien of the Mortgage, or will become subject to such lien upon the delivery and recording or filing of the deeds, supplemental indentures or instruments of further assurance, if any, specified in said Opinion of Counsel, and extends for a period of time not less than 10 years beyond the latest maturity date of any Bonds then outstanding, or that, under the terms of such leasehold, the Railroad Company has the right to be reimbursed in respect of the Cost of such Additions and Betterments or the right to remove the same upon the termination of such leasehold and that all of the Railroad Company's interest in such leasehold (except the last day of the term thereof), including any such right of reimbursement, has been pledged with the Trustee; provided that such Opinion of Counsel may recite that it is based upon certificates or opinions of officers or engineers of the Railroad Company as to any matters of fact not of public record.

SECTION 4. If, under the provisions of any Prior Lien on any part of property to be released from the Mortgage, there is required to be made with or to the trustee or mortgagee under such lien a deposit of cash or pledge of purchase money obligations in order to obtain a release therefrom of such part of the property subject to the Mortgage, the Railroad Company shall not be required to deposit or pledge with the Trustee such cash or purchase money obligations to the extent that the Railroad Company shall deposit such cash and pledge such purchase money obligations with the trustee or mortgagee of such lien.

SECTION 5. Should any part of the property subject to the lien of the Mortgage be taken by the exercise of the power of eminent domain or should any governmental body at any time exercise any right which it may have to require the sale to it or to a purchaser designated by it of any part of the property subject to the lien of the Mortgage, the Trustee, upon request

of the Railroad Company, shall release the property so taken or sold upon the Trustee's being furnished with an Opinion of Counsel to the effect that such part of the property subject to the lien of the Mortgage has been lawfully taken or sold as aforesaid. The aforesaid Opinion of Counsel shall state the amount of proceeds received or to be received for the property so taken or sold. Subject to the provisions of Section 4 of this Article XI, the proceeds of all property so taken or sold shall be deposited with the Trustee.

SECTION 6. In order to confirm, secure or clear (of record or otherwise) the prior right, charge, lien or title with respect to Equipment securing any Equipment Obligation hereafter created under reservation of right set forth in connection with the granting clauses of the Mortgage, the Trustee shall, upon compliance with the subsequent provisions of this Section 6, either confirm as to such Equipment the subordination of the lien of the Mortgage to such prior right, charge, lien or title, or release such Equipment from the lien of the Mortgage.

Prior to any such confirmation of subordination or release there shall be delivered to the Trustee a Certified Resolution requesting such action by the Trustee and an Officers' Certificate which shall describe the Equipment as to which a confirmation of subordination or a release is requested, shall describe the Equipment Obligation to be secured by a prior right, charge, lien or title thereon, shall state that such Equipment was acquired or constructed for the use of the Railroad Company within two years preceding the date of such Certificate, and shall state that none of said Equipment has theretofore been Bonded or Otherwise Financed.

There shall also be furnished to the Trustee an Opinion of Counsel and the instrument or instruments to be executed and delivered by the Trustee in order to effect the requested

confirmation of subordination or release. Such Opinion of Counsel shall approve the form of the instrument or instruments furnished therewith and shall express the opinion that, after the execution and delivery by the Trustee of such confirmation of subordination or release, the lien of the Mortgage will continue to attach to all right, title or interest of the Railroad Company then or thereafter existing with respect to the Equipment described in the Certificate, subject only to the prior right, charge, lien or title of the Equipment Obligations therein described, and to Permitted Encumbrances; but such expression of opinion may be predicated upon the execution and delivery of other instruments in addition to those specified above, or the taking of other action, in which case the Railroad Company shall cause such other instruments to be executed and delivered or such other action to be taken.

SECTION 7. Unless an Event of Default shall have occurred and be continuing, all moneys held by the Trustee under this Article XI, at the option of the Railroad Company:

(a) May be withdrawn by the Railroad Company upon its written Application, accompanied by a Certified Resolution authorizing such Application, in an amount equal to the Gross Expenditures with respect to Additions and Betterments acquired or constructed after the date of the deposit of the moneys desired to be withdrawn, provided such Expenditures have not been Bonded or Otherwise Financed; but only upon delivery to the Trustee of an Officers' Certificate, dated not more than 30 days prior to the delivery thereof, containing a description in reasonable detail of the property constituting the Additions and Betterments represented by such Gross Expenditures and a statement of the amount of such Gross Expenditures, that no part of such Gross Expenditures has theretofore been Bonded or Otherwise Financed, and that no Event of Default has occurred and is continuing. There shall be delivered to the Trustee, accom-

panying said Application, deeds and instruments of transfer and an Opinion of Counsel of the character required in clauses (f) and (h) (2) of Part B of Section 3 of this Article XI.

(b) May be withdrawn by the Railroad Company upon its written Application, accompanied by a Certified Resolution authorizing such Application, in an amount equal to 133⅓% of the principal amount of Bonds to the authentication and delivery of which the Railroad Company would then be entitled on account of Bondable Expenditures under the provisions of Section 2 of Article III. On any such Application the Railroad Company shall comply with all applicable provisions of Section 2 of Article III relating to the authentication and delivery of Bonds and the provisions of Section 8 of Article III, except that it shall not be required to comply with any of the provisions of clause (f) of Section 2 of Article III or Section 8 of Article III other than clauses (d) (4) and (e) of said Section 8. Any withdrawal of cash under this paragraph shall be in lieu of the right of the Railroad Company to the authentication and delivery of Bonds on account of such Bondable Expenditures.

(c) May be withdrawn by the Railroad Company upon its written Application in an amount not exceeding the principal amount or the cost (exclusive of interest) to the Railroad Company, whichever is less, of any Bonds (not theretofore Bonded, or acquired, retired, cancelled or paid through the operation of any sinking fund or analogous fund established pursuant to the Mortgage or pursuant to the General Mortgage) theretofore authenticated and delivered under the Mortgage which shall have been cancelled or surrendered to the Trustee for cancellation, but only upon delivery to the Trustee of

(1) an Officers' Certificate describing the Bonds the cancellation or surrender for cancellation of which forms the basis for the proposed withdrawal of cash, stating

the cost thereof (exclusive of interest) to the Railroad Company, and stating that said Bonds have theretofore been duly issued and outstanding and reacquired by the Railroad Company, that none of said Bonds has theretofore been Bonded, or acquired, retired, cancelled or paid through the operation of any sinking fund or analogous fund established pursuant to the Mortgage or pursuant to the General Mortgage, and that no Event of Default has occurred and is continuing; and

(2) the particular Bonds together with all appropriate coupons, if any, appertaining thereto.

(d) May be applied, upon the written request of the Railroad Company, signed by its President or a Vice President, accompanied by a Certified Resolution authorizing such request, to the payment at maturity or to the redemption of Bonds then outstanding of any series determined by said Resolution. Any such request of the Railroad Company for the application of moneys pursuant to this clause (d) shall also be accompanied by an Officers' Certificate stating that no Event of Default has occurred and is continuing.

The Railroad Company covenants that whenever any redemption of Bonds shall be applied for under the provisions of clause (d) of this Section 7, it will take all action necessary, or authorize the Trustee to take all action necessary, to redeem such Bonds at the earliest applicable redemption date, and will deposit with Trustee on or before the date fixed for redemption additional moneys sufficient to pay the premium and all accrued and unpaid interest on the Bonds so to be redeemed to the date so fixed for redemption.

If and when the Railroad Company shall so request by Certified Resolution filed with the Trustee, provided no Event of Default shall have occurred and then be continuing, any moneys at the time held under this Article XI by the Trustee shall be invested by it in such direct obligations of the United States of America maturing within 2 years as shall be speci-

fied in such Resolution. Such obligations shall be held by the Trustee in lieu of the moneys invested therein subject to its absolute right to liquidate such investment in such manner and at such time or times as, in the exercise of its discretion, it deems to be advisable. The Railroad Company covenants that upon demand by the Trustee it will replace all moneys lost through any investment made and liquidated as by this Section 7 contemplated, and will pay or reimburse the Trustee for all accrued interest, commissions and expense paid or incurred in connection with the acquisition and liquidation of such investment. The Trustee shall have the right and duty to receive all amounts paid on account of any investment made by it as hereby contemplated, including all interest payments, shall retain such interest payments pending liquidation of such investment, and after such liquidation shall retain so much of such interest payments as may be necessary to replace any loss of moneys suffered or to pay or reimburse itself for any accrued interest, commissions or expense paid or incurred in connection with the acquisition and liquidation of such investment and not replaced, paid or reimbursed by the Railroad Company as above provided, and shall pay over any balance of such interest payments to the Railroad Company.

SECTION 8. The Trustee shall not be required under any of the provisions of this Article XI to release any part of the property subject to the lien of the Mortgage from the lien hereof at any time when an Event of Default shall have occurred and be continuing; but, notwithstanding any such Event of Default, the Trustee may do so upon compliance by the Railroad Company with the provisions of Section 3 of this Article XI except clause (c)(5) of Part B of said Section 3, if the Trustee in its discretion shall deem that such release will not adversely affect the interests of the Bondholders, or if the holders of a majority in principal amount of the Outstanding Bonds shall request the Trustee so to do.

SECTION 9. In no event shall any purchaser or purchasers of any part of the mortgaged property sold or disposed of under any provisions of this Article XI be required to ascertain the authority of the Trustee to execute any release, to see to the application of the purchase money or to inquire as to any facts required by the provisions hereof for the exercise of such authority.

SECTION 10. Notwithstanding any of the provisions of the Mortgage, the Trustee shall release, either before or after an Event of Default shall have occurred, the lien of the Mortgage as to any property or properties or part or parts thereof at any time subject thereto, and cause such property or properties to revert to the Railroad Company free and clear of such lien; provided, however, that, prior to the release of any such property under this Section 10, there shall have been delivered to the Trustee in each case:

(a) a request (evidenced as provided in Section 1 of Article XIII) of the holders of not less than 75% in aggregate principal amount of all Outstanding Bonds, to release the property in question and the designation by such holders of the independent railroad expert referred to in subsection (c) below; or

(b) the record showing that the holders of not less than 85% in aggregate principal amount of all Outstanding Bonds represented at a Bondholders' Meeting, called and conducted pursuant to Article XIV hereof, at which not less than 50% in aggregate principal amount of all Outstanding Bonds were represented, requested the release of the property in question and designated the independent railroad expert referred to in subsection (c) below; and

(c) in either case, a report of the independent railroad expert designated pursuant to either subsection (a) or subsection (b) above, to the effect that such property is no longer of value to the holders of Outstanding Bonds and that, in his opinion, a proper allocation of revenues and expenses thereto then shows, and in the future may reasonably be expected to show, a loss.

such as may have arisen by its negligence or bad faith, and the payment of all taxes, assessments or liens prior to the lien of the Mortgage, except taxes, assessments and prior liens, if any, subject to which the property shall have been sold.

Second. To the payment of the whole amount then due and unpaid upon the Outstanding Bonds for principal and interest, with interest on the overdue principal at the highest rate of interest borne by any of the Outstanding Bonds, and in case such moneys shall be insufficient to pay in full the whole amount so due and unpaid upon the Outstanding Bonds, then to the payment of such principal and interest proportionately, according to the aggregate of such principal and accrued and unpaid interest, without preference or priority of any Outstanding Bond over any other Outstanding Bond of the same or of another series or of principal over interest, or of interest over principal, or of any instalment of interest over any other instalment of interest, subject, however, to the provisions of Section 1 of this Article XVI.

Third. To the payment of the surplus, if any, to the Railroad Company, its successors or assigns, or to whosoever may be lawfully entitled to receive the same, or as a court of competent jurisdiction may direct.

SECTION 12. In case of any sale under the foregoing provisions of this Article XVI, whether made under the power of sale hereby granted or pursuant to judicial proceedings, any purchaser, for the purpose of making settlement or payment for the property purchased, shall be entitled to use and apply any Bonds and any matured and unpaid coupons and interest obligations hereby secured, subject to the provisions of Section 1 of this Article XVI, by presenting such Bonds and coupons in order that there may be credited as paid thereon the sums payable out of the net proceeds of such sale to the holder or registered owner of such Bonds and coupons, as his propor-

tionate share of such net proceeds; and such purchaser shall be credited on account of the purchase price payable by him with the sums payable out of such net proceeds which shall be applicable to the payment of and which shall have been credited, upon the Bonds and coupons so presented; and, at any such sale, any Bondholder may bid for and purchase such property, and may make payment therefor as aforesaid, and, upon compliance with the terms of said sale, may hold, retain and dispose of such property without further accountability therefor.

SECTION 13. The Railroad Company covenants that (a) if default shall be made in the payment of any interest on any Outstanding Bonds, or (b) if default shall be made in the payment of the principal of any Outstanding Bonds, or the premium thereon payable on redemption thereof, when the same shall become due and payable, whether at the maturity of such Bonds, upon redemption, by declaration or by a sale of the mortgaged property, or otherwise, then, upon demand of the Trustee, the Railroad Company will pay to the Trustee for the benefit of the holders of such Bonds and coupons the whole amount then due and payable on such Bonds and coupons, for principal (and premium, if any) or interest, or both, as the case may be, with interest on the overdue principal at the highest rate of interest borne by any of the Outstanding Bonds; and in case the Railroad Company shall fail to pay the same forthwith upon such demand, the Trustee, in its own name and as Trustee of an express trust, shall be entitled to recover judgment for the whole amount so due and unpaid.

The Trustee shall be entitled to institute and prosecute any action and enforce any judgment or final decree as aforesaid, either before or after or during the pendency of any proceedings for the enforcement of the lien of the Mortgage, and

the right of the Trustee to such judgment or final decree shall not be affected by any entry or sale hereunder, or by the exercise of any other right, power or remedy for the enforcement of the provisions of the Mortgage or the foreclosure of the lien hereof; and in case of a sale of the mortgaged property or any part thereof, the Trustee, in its own name and as trustee of an express trust, shall be entitled to enforce payment of, and to receive, all amounts then remaining due and unpaid upon any and all of the Bonds and coupons, for the benefit of the holders thereof, and shall be entitled to institute and prosecute any action and enforce any judgment or final decree as aforesaid for any portion of the said debt remaining unpaid, with interest. No judgment or decree obtained by the Trustee, and no levy of any execution upon the mortgaged property, or upon any other property, shall in any manner, or to any extent, affect the lien of the Mortgage upon the mortgaged property, or any part thereof, or any lien, rights, powers or remedies of the Trustee hereunder, or any lien, rights, powers or remedies of the Bondholders, but such lien, rights, powers and remedies shall continue unimpaired as before, except as otherwise provided by law.

Any moneys collected by the Trustee under this Section 13 shall be applied by the Trustee,

First, to the payment of the costs and expenses of the proceedings resulting in the collection of such moneys, and of the compensation of and the expenses, liabilities and advances made or incurred by the Trustee hereunder, except such as may have arisen by its negligence or bad faith; and

Second, to the payment of the amounts then due and unpaid upon the Outstanding Bonds and coupons in respect of which such moneys shall have been collected, without any preference or priority of any kind, but subject to the provisions of Section 1 of this Article XVI,

proportionately according to the amounts due and payable upon such Outstanding Bonds and coupons, respectively, at the date fixed by the Trustee for distribution of such moneys, upon presentation of the several Outstanding Bonds and coupons and their surrender if fully paid, or for proper stamping if only partially paid.

SECTION 14. The Railroad Company will not at any time insist upon or plead, or claim to take advantage of any statute or rule of law, now or hereafter in force, wherever enacted or established, in aid of debtors or permitting or providing for (a) the staying of actions in respect of mortgages or mortgage indebtedness, or for extending the time for payment of such indebtedness; (b) the valuation or appraisalment of the property held under any mortgage or pledge to secure indebtedness prior to any sale or sales thereof pursuant to the terms of such mortgage or pledge or to the decree, judgment or order of any court; or (c) the redemption of any property so sold; and the Railroad Company hereby expressly waives all benefit and advantage of any such statute or rule of law, and covenants that it will not hinder, delay or impede the execution of any power herein granted or delegated to the Trustee, but that it will suffer and permit the execution of every such power, as though no such statute or rule of law had been enacted or established.

SECTION 15. In case (1) an Event of Default shall occur and (a) at any time during the continuance of such Event of Default there shall be any existing judgment against the Railroad Company unsatisfied and unsecured by bond on appeal or (b) in any judicial proceeding by any party other than the Trustee, a receiver shall be appointed of the Railroad Company or of its property or any part thereof, or a judgment or order be entered for the sequestration of its property or any part thereof; or, in case (2) the Railroad

Company shall make default in the payment of interest specified in clause (a) of Section 2 of this Article XVI, and shall by resolution of its Board of Directors admit to the Trustee its inability to make good such default; then the Trustee, in either such case, shall thereupon be entitled, in the discretion of the Trustee, forthwith to exercise the right of entry herein conferred and also any and all other rights and powers herein conferred and provided to be exercised by the Trustee upon the happening and continuance of an Event of Default as hereinbefore provided; and the Trustee shall thereupon be entitled as a matter of right (i) to the appointment of a receiver of the mortgaged property and of the earnings, rents, issues, profits, tolls, revenues and income thereof, with such powers as the court making such appointment shall confer, and (ii) to the entry of an order directing that the rents, issues, profits, tolls, revenues and other income of the premises and property comprised in the mortgaged property be segregated, sequestered and impounded for the benefit of the Trustee and the Bondholders from and after the date of the institution of any judicial proceedings of the nature referred to in this Section 15 or in clauses (d) and (e) of Section 2 of this Article XVI. Notwithstanding the appointment of any such receiver, the Trustee, as pledgee, shall be entitled to retain possession and control of, and to collect all interest and dividends or earnings on, any shares of stock, cash, bonds and other obligations pledged with it as security hereunder.

The Railroad Company hereby irrevocably consents to the appointment of such receiver and to the entry of such order.

SECTION 16. Upon application of the Trustee to any court of competent jurisdiction, and with the consent of the Railroad Company if none of the Events of Default shall have occurred and be continuing, and without such consent if one or more of the Events of Default shall have occurred and be

continuing, a receiver may be appointed to take possession of, and to operate, maintain and manage the mortgaged property or any part thereof, and any other property of the Railroad Company used for, in or about, or the use or possession whereof shall be essential to, the operation of the mortgaged railroads or any thereof, and the Railroad Company shall transfer and deliver to such receiver all such property, wheresoever the same may be situated; and in every case when a receiver of the whole or of any part of said property shall be appointed under this Section 16, or otherwise, the net income and profits of the mortgaged property shall be paid over to, and shall be received by, the Trustee for the benefit of the holders of the Outstanding Bonds and coupons to be applied as provided in Section 2 of this Article XVI; provided, however, that, notwithstanding the appointment of any such receiver, the Trustee shall be entitled to retain control of, and to collect all interest and dividends or earnings on, any shares of stock, cash, bonds and other obligations pledged with it as security hereunder.

SECTION 17. No holder of any Bond or coupon shall have any right to institute any suit, action or proceeding in equity or at law for the foreclosure of the Mortgage, or for the execution of any trust hereunder, including the appointment of a receiver, or for any other remedy hereunder, unless (a) such holder previously shall have delivered to the Trustee written notice that one or more Events of Default, which default or defaults shall be specified in such notice, has occurred and is continuing, and (b) the holders of not less than 25% in principal amount of the then Outstanding Bonds shall have requested the Trustee in writing and shall have afforded to it reasonable opportunity either to proceed to exercise the powers hereinbefore granted, or to institute such action, suit or proceeding in its own name, and (c) one or more

holders of Bonds shall have offered to the Trustee adequate security and indemnity, satisfactory to it, against the costs, expenses and liabilities to be incurred therein or thereby, nor unless the Trustee shall have refused or neglected to act on such notification, request and offer of indemnity for at least 30 days; and such notification, request and offer of indemnity are hereby declared, in every such case, at the option of the Trustee, to be conditions precedent to the exercise of the powers and trusts of the Mortgage and to any action or cause of action for foreclosure, including the appointment of a receiver or trustee, or for any other remedy hereunder; it being understood and intended that no holder of any Bond or coupon shall have any right in any manner whatsoever by his action to affect, disturb or prejudice the lien of the Mortgage or to enforce any right hereunder, except in the manner herein provided, and that all proceedings at law or in equity shall be instituted, had or maintained in the manner herein provided, and for the equal benefit of all holders of the Outstanding Bonds and coupons.

Nothing contained in this Section 17 or elsewhere in the Mortgage or in the Bonds or in the coupon shall affect or impair the obligation of the Railroad Company, which is unconditional and absolute, to pay the principal of, premium, if any, and interest on the Bonds to the respective holders of the Bonds and to the respective holders of the coupons, as provided in such Bonds, nor affect or impair the right of action at law, which is also absolute and unconditional, of such holders to collect such payment.

SECTION 18. Except as herein expressly provided to the contrary, no remedy herein conferred upon or reserved to the Trustee or the Bondholders is intended to be exclusive of any other remedy or remedies, but each and every such remedy shall be cumulative, and shall be in addition to every other

remedy given hereunder, or now or hereafter existing at law or in equity or by statute.

SECTION 19. No delay of the Trustee or of any Bondholder in exercising any right or power accruing upon any default continuing as aforesaid and no omission to exercise any such right or power shall impair any such right or power or shall be construed to be a waiver of any such default, or an acquiescence therein; and every power and remedy given by this Article XVI to the Trustee, or to any Bondholder, may be exercised from time to time, and as often as may be deemed expedient, by the Trustee or by such Bondholder, respectively.

SECTION 20. The Trustee shall have power, but shall be under no duty, to institute and maintain suits or proceedings to restrain the enforcement of, or compliance with, or the observance of, any legislative or governmental enactment, rule or order that it may be advised and believe is unconstitutional, or otherwise invalid, if the enforcement of, or compliance with, or observance of, such enactment, rule or order would, in the judgment of the Trustee, impair the security hereunder or be prejudicial to the Trustee or to the Bondholders.

SECTION 21. The holders of a majority in aggregate principal amount of the Outstanding Bonds shall have the right to direct the time, method, and place of conducting any proceeding for any remedy available to the Trustee, or the exercise or non-exercise of any trust or power conferred on the Trustee. The holders of a majority in aggregate principal amount of the Outstanding Bonds may on behalf of the holders of all of the Bonds waive any past default hereunder and its consequences except an Event of Default specified in clauses (a) or (b) of Section 2 of this Article XVI. In the case of any such waiver, the Railroad Company, the Trustee

and the Bondholders shall be restored to their former positions and rights hereunder, respectively; but no such waiver shall extend to any subsequent or other default or impair any right consequent thereon.

SECTION 22. All parties to the Mortgage agree, and each holder of any Bond by his acceptance thereof shall be deemed to have agreed, that any court may in its discretion require, in any suit for the enforcement of any right or remedy under this Mortgage, or in any suit against the Trustee for any action taken or omitted by it as Trustee, the filing by any party litigant in such suit of an undertaking to pay the costs of such suit, and that such court may in its discretion assess reasonable costs, including reasonable attorneys' fees, against any party litigant in such suit, having due regard to the merits and good faith of the claims or defenses made by such party litigant; but the provisions of this Section 22 shall not apply to any suit instituted by the Trustee, to any suit instituted by any Bondholder or group of Bondholders holding more than 10% in aggregate principal amount of the Outstanding Bonds, or to any suit instituted by any Bondholder for the enforcement of the payment of the principal of or interest on any Bond, on or after the due date expressed in such Bond.

SECTION 23. To the extent that any provision of this Article XVI may be invalid or unenforceable under any applicable law with respect to any of the mortgaged property, such provision shall be deemed inoperative and inapplicable.

ARTICLE XVII

IMMUNITY OF INCORPORATORS, STOCKHOLDERS, DIRECTORS
AND OFFICERS

The Mortgage and the Bonds and coupons are solely corporate obligations. No recourse shall be had for the payment of the principal of or the interest on any Bond, or for any claim based thereon or on any coupon appurtenant thereto, or because of the creation of the indebtedness represented thereby, or otherwise in respect thereof, or based on or in respect of the Mortgage, against any past, present or future incorporator, stockholder, officer or director of the Railroad Company, as such, whether by virtue of any constitution, statute or rule of law or by the enforcement of any assessment or penalty or otherwise, all such liability, by the acceptance of such Bond and as part of the consideration for the issuance thereof, being expressly waived and released.

ARTICLE XVIII

DEFEASANCE

SECTION 1. If (a) the Railroad Company shall deliver to the Trustee for cancellation all Bonds and appurtenant coupons not theretofore cancelled and delivered to the Trustee, or (b) all Bonds not theretofore delivered to the Trustee cancelled or for cancellation shall have become due and payable, or are by their terms to become due and payable within 90 days or are to be redeemed within 90 days under arrangements satisfactory to the Trustee for the giving of notice of redemption, and the Railroad Company shall deposit with the Trustee as trust funds an amount sufficient to pay at maturity or upon redemption all of the Bonds not theretofore delivered to the Trustee cancelled or for cancellation, including the principal thereof, premium, if any, and the full amount of unpaid interest which has or will become due to such date of maturity or redemption, as the case may be, and if in either case the Railroad Company shall also pay or cause to be paid all other sums payable hereunder by the Railroad Company, then the Mortgage shall cease to be of further effect. In such event the Trustee, on demand of the Railroad Company and at its cost and expense, shall execute and deliver to the Railroad Company such instrument or instruments as may be appropriate to acknowledge satisfaction of the Mortgage, and as will enable the Railroad Company to have the Mortgage discharged of record, and shall release and assign, or cause to be released and assigned, to the Railroad Company all of its interest in the mortgaged property, and shall deliver to the Railroad Company or upon its order all securities and moneys then held by the Trustee under the provisions hereof other than the money deposited as above provided in this Article XVIII.

The Railroad Company, notwithstanding the satisfaction of the Mortgage as above provided, will indemnify the Trustee and hold it harmless against any and all expense or liability, incurred without negligence or bad faith, ascertained

or incurred by the Trustee after the satisfaction thereof arising out of or based upon any matter connected with the trust created by the Mortgage.

SECTION 2. All moneys deposited with the Trustee pursuant to Section 1 of this Article XVIII shall be held in trust and applied by it to the payment to the holders of the Bonds and coupons of all sums due and to become due thereon for principal and interest and premium, if any.

SECTION 3. Upon the satisfaction and discharge of the Mortgage, all moneys then held by any paying agent under any provision of the Mortgage shall be paid to the Trustee, and thereupon such paying agent shall be released from all further liability with respect to such moneys.

SECTION 4. Any moneys deposited by the Railroad Company with the Trustee or with any paying agent for the payment of the principal of, or the premium or interest on, any Bond which shall remain unclaimed by the holder of the Bond or coupon entitled to receive the same for 10 years after the date upon which the principal of such Bond shall have become due and payable (upon redemption or otherwise) shall be repaid to the Railroad Company on demand; and the holder of any Bond or coupon entitled to receive such payment shall thereafter look only to the Railroad Company for the payment thereof; provided, however, that (a) before any such repayment may be made, the Trustee, at the expense of the Railroad Company, shall cause to be published once a week for two successive calendar weeks (in each case on any day of the week) in a Daily Newspaper in the Borough of Manhattan, City of New York, New York, and in a Daily Newspaper in the City of Chicago, Illinois, a notice that said moneys have not been claimed and that after a date named therein any balance of said moneys then remaining will be returned to the Railroad Company, and (b) the amount of such repayment shall be limited to the balance of such moneys unclaimed at the close of business on such date.

ARTICLE XIX

SUPPLEMENTAL INDENTURES

SECTION 1. The Railroad Company, when authorized by a resolution of its Board of Directors, and the Trustee may from time to time and at any time enter into an indenture or indentures supplemental hereto for one or more of the following purposes:

(a) To convey, transfer and assign to the Trustee and subject to the lien of the Mortgage, with the same force and effect as though included in the granting clauses hereof, additional property then owned by the Railroad Company, acquired through consolidation, merger, purchase or otherwise;

(b) To evidence the succession of another corporation to the Railroad Company, or successive successions, and the assumption by the successor corporation of the covenants, agreements and obligations of the Railroad Company pursuant to Article XII;

(c) To set forth the terms and provisions of any series of Bonds to be issued hereunder and the form of the Bonds and coupons of such series;

(d) To add to the covenants of the Railroad Company such further covenants for the protection of the mortgaged property and the Bondholders as the Board of Directors and the Trustee shall consider to be for the protection of the Bondholders, and to make the occurrence and continuance of a default under any of such additional covenants a default permitting the enforcement of all or any of the several remedies provided in the Mortgage; provided, however, that in respect of any such additional covenant, such supplemental indenture may provide for a particular period of grace after default (which period may be shorter or longer than that allowed in the case of other defaults) or may provide for an immediate enforcement of said remedy or remedies upon

such default or may limit the remedies available to the Trustee upon such default or may authorize the holders of not less than a majority in aggregate principal amount of the Outstanding Bonds to waive such default and prescribe limitations on such rights of waiver; and

(e) To cure any ambiguity or to correct or supplement any provision contained in the Mortgage which may be defective or inconsistent with any other provision contained herein or in any supplemental indenture, or to make such other provisions in regard to matters or questions arising under the Mortgage as shall not be inconsistent with the provisions of the Mortgage and shall not adversely affect the interest of the Bondholders.

The Trustee is hereby authorized to join with the Railroad Company in the execution of any such supplemental indenture, to make any further appropriate agreements and stipulations which may be therein contained and to accept the conveyance, transfer and assignment of any property thereunder, but the Trustee shall not be obligated to enter into any such supplemental indenture which, in its opinion, affects the Trustee's own rights, duties or immunities under the Mortgage or otherwise.

Any supplemental indenture authorized by the provisions of this Section 1 may be executed by the Railroad Company and the Trustee without the consent of the holders of any of the then Outstanding Bonds, notwithstanding any of the provisions of Section 2 of this Article XIX.

SECTION 2. With the consent (evidenced as provided in Section 1 of Article XIII) of the holders of not less than 66⅔% in aggregate principal amount of the Outstanding Bonds to be directly affected thereby, and with the approval of the Interstate Commerce Commission or other public regulatory body having jurisdiction in the premises, the Railroad

ARTICLE XIV

BONDHOLDERS' MEETINGS

SECTION 1. The Trustee may at any time call a meeting of Bondholders to take any action specified in Section 1 of Article XIII, to be held at such time and at such place as the Trustee shall determine. Notice of every meeting of Bondholders, setting forth the time and place of such meeting and the action proposed to be taken at such meeting, shall be published at least once each week, for 4 successive weeks, in a Daily Newspaper in the Borough of Manhattan, City and State of New York, and in a Daily Newspaper in the City of Chicago, State of Illinois, the first publication in any such newspaper to be not less than 30 days nor more than 60 days prior to the date fixed for the meeting. A copy of such notice shall be mailed at least 30 days prior to the date fixed for the meeting to the registered holders of registered Bonds without coupons and of coupon Bonds registered as to principal at their last addresses as they shall appear upon the bond registry books, but neither failure to give such notice by mail nor any defect therein shall affect the validity of such meeting.

SECTION 2. In case at any time the Railroad Company pursuant to a resolution of its Board of Directors, or the holders of at least 10% in aggregate principal amount of the Outstanding Bonds, shall have requested the Trustee to call a meeting of Bondholders, by written request setting forth in reasonable detail the action proposed to be taken at the meeting, and the Trustee shall not have made the first publication of the notice of such meeting within 20 days after receipt of such request, then the Railroad Company or the holders of Outstanding Bonds in the amount above specified may determine the time and place for such meeting

and may call such meeting to take any action authorized in Section 1 of Article XIII, by publishing and mailing notice thereof as provided in Section 1 of this Article XIV.

SECTION 3. To be entitled to vote at any meeting of Bondholders a person shall be (a) a holder of coupon Bonds transferable by delivery, or (b) a registered holder of Bonds (whether the same be fully registered or registered only as to principal), or (c) a person appointed by an instrument in writing as proxy for a holder of coupon Bonds transferable by delivery or for a registered holder of Bonds (whether the same be fully registered or registered only as to principal). The only persons who shall be entitled to speak at any meeting of Bondholders shall be the persons entitled to vote at such meeting and their counsel and any representatives of the Trustee and its counsel and any representatives of the Railroad Company and its counsel.

SECTION 4. Notwithstanding any other provisions of the Mortgage, the Trustee may make such reasonable regulations as it may deem advisable for any meeting of Bondholders, in regard to proof of the holding of Bonds and of the appointment of proxies, and in regard to the appointment and duties of inspectors of votes, the submission and examination of proxies, certificates and other evidences of the right to vote, and such other matters concerning the conduct of the meeting as it shall deem advisable. Except as otherwise permitted or required by any such regulations, the holding of Bonds shall be proved in the manner specified in Section 2 of Article XIII, and the appointment of any proxy shall be proved in the manner specified in said Section 2 or by having the signature of the person executing the proxy witnessed or guaranteed by any bank, bankers or trust company authorized by said Section 2 to certify to the holding of Bonds transferable by delivery.

The Trustee shall, by an instrument in writing, appoint a temporary chairman of the meeting, unless the meeting shall have been called by the Railroad Company or by Bondholders as provided in Section 2 of this Article XIV, in which case the Railroad Company or the Bondholders calling the meeting, as the case may be, shall in like manner appoint a temporary chairman. A permanent chairman and a permanent secretary of the meeting shall be elected by vote of the holders of a majority in principal amount of Outstanding Bonds the holders of which shall be present or represented and entitled to vote at the meeting.

Subject to the provisions of Section 4 of Article XIII, at any meeting each Bondholder or proxy shall be entitled to one vote for each and every unit of the lowest principal amount of any of the Bonds then outstanding, in respect of which he is entitled to vote at the meeting; provided, however, that no vote shall be cast or counted at any meeting in respect of any Bond challenged as not outstanding and ruled by the chairman of the meeting to be not an Outstanding Bond. The chairman of the meeting shall have no right to vote other than by virtue of Outstanding Bonds held by him or instruments in writing as aforesaid duly designating him as the person to vote on behalf of other Bondholders.

SECTION 5. Any meeting of the Bondholders may be adjourned from time to time as and when, and to such time and place, as may be approved by a majority of the votes which the holders of Bonds at the time present or represented may be entitled to cast, irrespective of the aggregate principal amount of Bonds held by such holders; and the meeting may be held as so adjourned without further notice.

SECTION 6. The vote upon any proposal submitted at a meeting of Bondholders shall be by written ballots on which

shall be subscribed the signatures of the holders of Bonds or their representatives by proxy and the serial number or numbers of the Bonds held or represented by them. The chairman of the meeting shall appoint two inspectors of votes who shall count all votes cast at the meeting for or against any proposal and who shall make and file with the secretary of the meeting their verified written reports in duplicate of all votes cast at the meeting. A record in duplicate of the proceedings of each meeting of Bondholders shall be prepared by the secretary of the meeting and there shall be attached to said record the original reports of the inspectors of votes cast on any vote by ballot taken thereat and affidavits by one or more persons having knowledge of the facts setting forth a copy of the notice of the meeting and showing that said notice was published as provided in Section 1 of this Article XIV. The record shall show the serial numbers of the Bonds voted for or against any proposal submitted at the meeting. The record shall be signed and verified by the permanent chairman and secretary of the meeting and one of the duplicates shall be delivered to the Railroad Company and the other to the Trustee to be preserved by the Trustee. Any record so signed and verified shall be conclusive evidence of the matters therein stated.

SECTION 7. Nothing in this Article XIV contained shall be deemed or construed to authorize or permit, by reason of any call of a meeting of Bondholders or any rights expressly or impliedly conferred hereunder to make such call, any hindrance or delay in the exercise of any right or rights conferred upon or reserved to the Trustee or to the Bondholders under any of the provisions of the Mortgage or of the Bonds.

ARTICLE XV

CONCERNING THE TRUSTEE

SECTION 1. The Trustee accepts the trusts hereby created upon the terms and conditions in this Article XV specified, to all of which the Railroad Company and the holders of the Bonds and coupons at any time outstanding, by their acceptance thereof, agree.

Whenever and so long as an Event of Default has occurred and is continuing, the Trustee shall exercise such of the powers vested in it by the Mortgage, or take such other action with respect to such default, as in its judgment is necessary or desirable for the protection of the interests of the holders of Bonds issued hereunder.

No provision of the Mortgage shall be construed to relieve the Trustee from liability for its own negligent action, its own negligent failure to act, or its own willful misconduct, except that:

(a) Prior to the occurrence of an Event of Default and after the curing of all Events of Default which may have occurred

(1) the duties and obligations of the Trustee shall be determined solely by the express provisions of the Mortgage, and the Trustee shall not be liable except for the performance of such duties and obligations as are specifically set forth in the Mortgage, and no implied covenants or obligations shall be read into the Mortgage against the Trustee; and

(2) in the absence of bad faith on the part of the Trustee, the Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon any certificates, statements, reports or opinions furnished to the Trustee; but in the case of any such certificates, statements, reports or opinions which by any provision

hereof are specifically required to be furnished to the Trustee, the Trustee shall be under a duty to examine the same to determine whether or not they conform to the requirements of the Mortgage.

(b) The Trustee shall not be liable for any error of judgment made in good faith by a responsible officer of the Trustee, if such officer shall have been selected and continued in office in the exercise of due care, unless it shall be proved that the Trustee was negligent in ascertaining the pertinent facts.

(c) The Trustee shall not be liable with respect to any action taken or omitted to be taken by it in good faith in accordance with the direction of the holders of not less than a majority in principal amount (or such other percentage of the principal amount specifically prescribed by the Mortgage for a particular action) of the Outstanding Bonds relating to the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred upon the Trustee under the Mortgage.

(d) In the case of any action to be taken or suffered by the Trustee, wherein the Mortgage specifically authorizes such action notwithstanding the continuance of an Event of Default, nevertheless the Trustee may rely on certificates and opinions furnished to it, but shall be under the same duty to examine the same to determine whether or not they conform to the requirements of the Mortgage, as though an Event of Default had not occurred and been continuing.

The Trustee may rely and shall be protected in acting upon any Certified Resolution, certificate, statement, instrument, opinion, report, notice, request, consent, order, direction, bond, coupon or other paper or document believed by it to be genuine and to have been signed or presented by the proper party or parties.

Any request, direction, order or demand of the Railroad Company mentioned herein shall be sufficiently evidenced by an instrument signed in the name of the Railroad Company by the President or a Vice President and the Secretary or an Assistant Secretary, unless other evidence in respect thereof be herein specifically prescribed.

The Trustee may consult with counsel (including counsel in its employ) and the opinion of such counsel shall be full and complete authorization and protection in respect of any action taken or suffered by it hereunder in good faith and in accordance with the opinion of such counsel.

The Trustee shall be under no obligation to exercise any of the trusts or powers hereof at the request, order or direction of any of the Bondholders, pursuant to the provisions of the Mortgage, unless such Bondholders shall have offered to the Trustee reasonable security or indemnity against the costs, expenses and liabilities which may be incurred therein or thereby.

The Trustee shall not be personally liable in case of entry by it upon the mortgaged property for debts contracted or liability or damages incurred in the management or operation of said property.

The Trustee shall not be liable for any action taken by it in good faith and believed by it, in the exercise of due care, to be authorized or within the discretion or power conferred upon it by the Mortgage.

SECTION 2. None of the provisions contained in the Mortgage shall require the Trustee to expend or risk its own funds or otherwise incur personal financial liability in the performance of any of its duties or in the exercise of any of its rights or powers; but the Trustee, in its sole discretion and in order

to preserve the mortgaged property, may advance moneys for the purpose of paying taxes, rentals or otherwise, and for such advances, together with interest thereon at the rate of 4% per annum, the Trustee shall have a lien on the mortgaged property prior to any claim of the Bondholders, except as to funds held in trust for the benefit of the holders of particular Bonds or coupons.

SECTION 3. Should any taxes or other governmental charges be imposed upon the Trustee, in its capacity as Trustee hereunder, which it may be required to pay under any present or future law of the United States of America or of any other authority therein having jurisdiction, the Trustee shall be reimbursed and indemnified therefor by the Railroad Company, and any liability incurred or amounts paid by the Trustee in respect of any such taxes or other governmental charges, until paid, shall constitute a lien upon the mortgaged property prior to any claim of the holders of Bonds, except as to funds held in trust for the benefit of the holders of particular Bonds or coupons.

SECTION 4. Except as herein otherwise provided, any notice or demand which by any provision of the Mortgage is required or permitted to be given or served by the Trustee or any other person on the Railroad Company, shall be deemed to have been sufficiently given and served for all purposes by being deposited, postage prepaid, in a United States Post Office letter-box or mail chute, addressed (until another address is filed by the Railroad Company with the Trustee and thereafter if addressed to such new address) as follows: Chicago, Milwaukee, St. Paul and Pacific Railroad Company, Chicago, Illinois. Any notice, request or demand by any Bondholder to or upon the Trustee shall be deemed to have been sufficiently given or made, for all purposes, if given or made at the principal office of the Trustee.

SECTION 5. The Trustee shall not be bound to recognize any person as the holder of a Bond outstanding hereunder unless and until the Bond is submitted to the Trustee for inspection if required, and the title thereto established to the satisfaction of the Trustee.

Except as provided in Section 7 of Article XI, the Trustee shall be under no duty to invest any moneys paid to or deposited with it or to its credit pursuant to any of the provisions of the Mortgage, and shall not be liable for interest on any moneys during the period such moneys remain on deposit with it, except such interest as the Trustee may agree with the Railroad Company to pay.

Any action at any time taken by the Trustee pursuant to or with respect to the Mortgage at the request or with the consent or approval (express or implied) of any person who at the time is the holder of any Bond secured hereby, shall be conclusive and binding upon all future holders of such Bond.

All rights of action under the Mortgage may be enforced by the Trustee without the possession of any of the Bonds or the production thereof on the trial or other proceedings relative thereto.

SECTION 6. The recitals contained herein and in the Bonds shall be taken as the statements of the Railroad Company, and the Trustee assumes no responsibility for the correctness of the same. The Trustee makes no representations as to the value of the mortgaged property, or as to the title of the Railroad Company thereto, or as to the validity or sufficiency of the Mortgage or of the Bonds or coupons, except as contained in the Trustee's certificate of authentication endorsed on the Bonds. The Trustee shall not be accountable for the use or application by the Railroad Company of any of the Bonds or of the proceeds of such Bonds.

SECTION 7. The Trustee or any paying agent or bond registrar, in its individual or any other capacity, may become the owner or pledgee of Bonds or coupons with the same rights it would have if it were not such Trustee, paying agent or bond registrar.

SECTION 8. Subject to the provisions of Section 4 of Article XVIII hereof, all moneys received by the Trustee hereunder, until used or applied as herein provided, and all moneys received by the Trustee as paying agent in respect of the Bonds of any series, shall be held in trust for the purposes for which they were received, but need not be segregated from other funds except to the extent required by law. So long as no Event of Default shall have occurred and be continuing, any interest allowed on any such moneys shall be paid from time to time to or upon the written order of the Railroad Company, signed by its President or any Vice President.

SECTION 9. The Railroad Company covenants and agrees to pay to the Trustee from time to time, and the Trustee shall be entitled to receive, reasonable compensation (which shall not be limited by the statutes of any state relating to the compensation of a trustee of an express trust), and the Railroad Company will pay or reimburse the Trustee upon its request for all reasonable expenses, disbursements and advances incurred or made by the Trustee in accordance with any of the provisions of the Mortgage (including the reasonable compensation and the expenses and disbursements of its counsel and of all persons not regularly in its employ) except any such expense, disbursement and advance as may arise from its negligence or bad faith. The Railroad Company also covenants to indemnify the Trustee for, and to hold it harmless against, any loss, liability or expense incurred without negligence or bad faith on the part of the Trustee, arising out of or in connection with the acceptance or administration of the

trusts created by the Mortgage, including the costs and expenses of defending itself against any claim of liability in the premises. The obligations of the Railroad Company under this Section 9 to compensate and indemnify the Trustee and to pay or reimburse the Trustee for expenses, disbursements and advances shall constitute additional indebtedness hereunder and shall be secured by the lien hereof prior to the claims of the holders of Bonds upon the mortgaged property, except as to funds held in trust for the benefit of the holders of particular Bonds or coupons.

SECTION 10. Whenever in the administration of the trusts created by the Mortgage the Trustee shall deem it necessary or desirable that a matter be proved or established prior to taking or suffering any action hereunder, such matter (unless other evidence in respect thereof be herein specifically prescribed) may, in the absence of bad faith on the part of the Trustee, be deemed to be conclusively proved and established by an Officers' Certificate delivered to the Trustee, and such Certificate shall be full warrant to the Trustee for any action taken, suffered or omitted by it under the provisions of the Mortgage upon the faith thereof.

SECTION 11. Any company into which the Trustee or any successor to it in the trusts created by the Mortgage may be merged, or with which it or any such successor may be consolidated, or any company resulting from any merger, conversion, or consolidation to which the Trustee or any such successor shall be a party, provided such company shall be a trust company or a banking corporation in good standing organized under the laws of the United States or of any State, and shall have an office in the City of Chicago, Illinois, or in the Borough of Manhattan, City of New York, New York, and shall have a capital and surplus aggregating at least \$5,000,000, shall be the successor trustee under the Mort-

gage without the execution or filing of any paper or the performance of any further act on the part of the parties hereto. In case any of the Bonds shall have been authenticated but not delivered, any such successor trustee may adopt the certificate of authentication of Continental Illinois National Bank and Trust Company of Chicago, or of any successor to it, as Trustee hereunder, and deliver the same so authenticated; and in case any of the Bonds shall not have been authenticated, any such successor trustee may authenticate such Bonds either in the name of any predecessor trustee or in its own name as such successor trustee, and in all such cases such certificate shall have the same full force which it is anywhere in the Bonds or the Mortgage provided that the certificate of the Trustee shall have; provided, however, that the right to authenticate Bonds in the name of Continental Illinois National Bank and Trust Company of Chicago shall extend only to its successor by merger, conversion or consolidation.

SECTION 12. The Trustee or any successor trustee may at any time resign and be discharged from the trusts hereby created by giving to the Railroad Company written notice of such resignation and specifying a date upon which such resignation shall take effect. Notice of such resignation shall be published once each week for 2 successive weeks, on days not more than 90 days nor less than 60 days prior to the date so specified, in a Daily Newspaper in the Borough of Manhattan, City of New York, New York, and in a Daily Newspaper in the City of Chicago, Illinois, and such resignation shall take effect on the date specified in said notice or on the date of the appointment of a successor trustee as hereinafter provided, whichever shall be earlier.

The Trustee or any successor trustee may be removed with or without cause at any time by the holders of a majority in

principal amount of the Outstanding Bonds by the delivery to the Trustee or successor trustee, as the case may be, of an instrument or concurrent instruments signed by such holders or their attorneys-in-fact duly authorized. Any trustee who shall resign or be so removed shall be entitled to its reasonable compensation then accrued and unpaid and to reimbursement for proper expenses theretofore incurred and not previously reimbursed.

SECTION 13. In case at any time the Trustee or any successor trustee shall resign or shall be removed or shall become incapable of acting or shall be adjudged bankrupt or insolvent, or if a receiver of the Trustee or any successor, or of its property, shall be appointed, or if any public officer in the exercise of his official powers shall take charge or control of the Trustee or any successor, or its property or affairs, or if a vacancy shall arise in the trusteeship under the Mortgage from any cause, a successor trustee or successor trustees may be appointed by the holders of a majority in principal amount of the Outstanding Bonds, by an instrument or concurrent instruments in writing signed and acknowledged by such holders or their attorneys-in-fact duly authorized and delivered to such new trustee hereunder, notification being given to the Railroad Company and the predecessor trustee; provided, however, that until a new trustee shall be appointed by the holders of Outstanding Bonds as aforesaid and shall accept such appointment, the Railroad Company, by an instrument duly executed and acknowledged by its proper officers, by authority of its Board of Directors, shall appoint a trustee to fill the vacancy until the appointment of a new trustee by such holders as herein authorized. The Railroad Company shall publish notice of any such appointment made by it or by the holders of Outstanding Bonds as aforesaid once each week for two successive weeks in a Daily News-

paper in the Borough of Manhattan, City of New York, New York, and in a Daily Newspaper in the City of Chicago, Illinois, the first publication in each such Daily Newspaper to be within 10 days after such appointment has been made. Any new trustee appointed by the Railroad Company shall, immediately and without further act, be superseded by a trustee appointed by the holders of Outstanding Bonds in the manner above provided if the appointment by such holders be made within one year after the first publication of the notice of the appointment of the new trustee by the Railroad Company.

Every trustee appointed under any of the provisions of this Section 13 shall be a trust company or a banking corporation in good standing organized under the laws of the United States or of any State, having an office in the City of Chicago, Illinois, or in the Borough of Manhattan, City of New York, New York, and having a capital and surplus aggregating at least \$5,000,000.

If in a proper case no appointment of a successor trustee shall be made by the holders of Outstanding Bonds pursuant to the foregoing provisions of this Section 13 within 6 months after the happening of any of the events set forth in the first paragraph of this Section 13, the holder of any Bond outstanding hereunder or any retiring trustee hereunder may apply to any court of competent jurisdiction to appoint a successor trustee. Said court may thereupon, after such notice, if any, as said court may deem proper and prescribe, appoint a successor trustee. Any trustee appointed by the Railroad Company shall, immediately and without further act, be superseded by a trustee appointed by any such court in the manner above provided, if such appointment by such court be made within 18 months after the first publication of the notice of the appointment of the new

trustee by the Railroad Company. If application shall be made to any such court within such 18 months' period in this paragraph provided, the holders of Outstanding Bonds shall have no power to appoint a trustee as in this Section 13 provided unless such application shall be dismissed within one year after the first publication of the notice of the appointment of a new trustee by the Railroad Company.

Any successor trustee appointed hereunder shall execute, acknowledge and deliver to the predecessor trustee hereunder and to the Railroad Company an instrument in writing accepting such appointment hereunder, and thereupon said successor trustee, without any further act, deed or conveyance, shall become fully vested with all the estates, properties, rights, powers, trusts, duties and obligations of its predecessor in trust hereunder, with like effect as if originally named as trustee herein; but the retiring trustee, nevertheless, on the written request of the Railroad Company or of the successor trustee, and upon payment of its unpaid compensation and expenses, if any, shall execute, acknowledge and deliver such instruments of conveyance and further assurances and do such other things as reasonably may be required for more fully and certainly vesting and confirming in said successor trustee all the right, title and interest of the retiring trustee in and to the mortgaged property and said rights, powers, trusts, duties and obligations; and the retiring trustee shall also, upon like request and upon payment of its unpaid compensation and expenses as aforesaid, pay over, assign and deliver to the successor trustee any money and other property subject to the lien of the Mortgage then held by it, and deliver any and all records, or copies thereof, in respect of the trusts hereunder which it may have, and upon request of any such successor trustee the Railroad Company shall execute, acknowledge and de-

liver any and all deeds, conveyances or other instruments in writing for more fully and certainly vesting in and confirming to such successor trustee said estates, properties, rights, powers and duties, provided, however, that such successor trustee shall not authenticate Bonds in the name of such predecessor trustee.

SECTION 14. If at any time or times it shall be necessary or prudent in order to conform to any law of any state in which the Railroad Company shall at the time hold any property subject to the lien of the Mortgage, or the Trustee shall be advised by counsel satisfactory to it that it is so necessary or prudent in the interest of the Bondholders, or if the holders of a majority in principal amount of the Bonds shall in writing so request the Trustee or the Railroad Company, the Trustee and the Railroad Company shall execute and deliver all instruments and agreements necessary or proper to constitute another bank or trust company or one or more persons approved by the Trustee and the Railroad Company, either to act hereunder as co-trustee or co-trustees with respect to all or any of the property subject to the lien of the Mortgage, jointly with the Trustee, or to act hereunder as separate trustee or trustees with respect to any such property, any such bank, trust company or person so appointed being hereinafter referred to as an additional trustee. In the event the Railroad Company shall not have joined in the execution of such instruments and agreements within 30 days after the receipt of a written request from the Trustee so to do, or in case an Event of Default shall have occurred and be continuing, the Trustee may act under the foregoing provision of this Section 14 without the concurrence of the Railroad Company; and the Railroad Company hereby fully empowers the Trustee so to act and appoints the Trustee its

agent and attorney to act for it under the foregoing provision of this Section 14 in either of such contingencies.

Every such additional trustee hereunder shall, to the extent permitted by law, be appointed and act, and the Trustee shall act, subject to the following provisions and conditions, namely:

(a) the Bonds shall be authenticated and delivered and all powers, duties, obligations and rights conferred upon the Trustee in respect of the custody, control and management of moneys, papers or securities, shall be exercised solely by Continental Illinois National Bank and Trust Company of Chicago or its successor, as Trustee hereunder;

(b) all rights, powers, duties and obligations conferred or imposed upon the trustees or any of them shall be conferred and imposed upon and exercised or performed by Continental Illinois National Bank and Trust Company of Chicago or its successor, as Trustee, or by Continental Illinois National Bank and Trust Company of Chicago or its successor, as Trustee, and such additional trustee jointly, except to the extent that under the law of any jurisdiction in which any particular act or acts are to be performed, Continental Illinois National Bank and Trust Company of Chicago or its successor, as Trustee, shall be incompetent or unqualified to perform such act or acts, in which event such rights, powers, duties and obligations shall be exercised and performed by such additional trustee;

(c) no power hereby given to, or which it is hereby provided may be exercised by, any such additional trustee shall be exercised hereunder by such additional trustee except jointly with, or with the consent in writing of, Continental Illinois National Bank and Trust Company of Chicago or its successor, as Trustee;

(d) no trustee hereunder shall be personally liable by reason of any act or omission of any other trustee hereunder;

(e) the Railroad Company and the Trustee at any time by an instrument in writing executed by them jointly may remove any such additional trustee, and in that case, by an instrument in writing executed by them jointly, may appoint a successor to such additional trustee. In the event that the Railroad Company shall not have joined in the execution of any such instrument within 10 days after the receipt of a written request so to do, or in case an Event of Default shall have occurred and be continuing, the Trustee shall have the power to remove any such additional trustee and to appoint a successor additional trustee without the concurrence of the Railroad Company; and the Railroad Company hereby empowers the Trustee to make such removal and appointment and appoints the Trustee, its agent and attorney to act for it in such connection and in such contingency. In the event that the Trustee alone shall have appointed an additional trustee as above provided, it may at any time by an instrument in writing remove any such additional trustee, the successor to any such additional trustee to be appointed by the Railroad Company and the Trustee, or by the Trustee alone, as hereinbefore in this Section 14 provided.

Subject to requirements of context and to the foregoing, the term "Trustee" appearing throughout the Mortgage shall be deemed to include each such additional Trustee.

SECTION 15. The Trustee is hereby appointed (and the successive holders of the Bonds, by taking and holding the same, shall conclusively be deemed to have so appointed the Trustee) the true and lawful attorney-in-fact of the respective holders of the Bonds, with authority to make or file, irrespective of whether the Bonds or any of them are in

default as to payment of principal or interest, in the respective names of the holders of the Bonds and coupons or in behalf of all holders of the Bonds and coupons as a class, any proof of debt, amendment to any proof of debt, petition or other document, and to execute any and all other papers and documents and do and perform any and all other acts and things for and in behalf of the respective holders of the Bonds and coupons, or in behalf of all holders of the Bonds and coupons as a class, as may be necessary or advisable in the opinion of the Trustee in order to have the claims of the holders of the Bonds and coupons against the Railroad Company, or any successor, or any other person or corporation, allowed and paid in any equity receivership, insolvency, liquidation, bankruptcy, reorganization or other proceedings which shall involve the Railroad Company or the mortgaged property or any part thereof, and to receive payment of or on account of any such claim or claims; and any receiver, assignee or trustee in any such proceeding is hereby authorized by each of the Bondholders to make such payments to the Trustee. The appointment made and authority granted by this Section 15 may be revoked by any holder of Bonds or coupons with respect to Bonds or coupons held by him at any time after institution of any such proceeding, by delivering notice of such revocation to the Trustee and filing a copy thereof in such proceeding. Nothing herein contained shall give the Trustee authority to assent to or reject on behalf of any holder of Bonds and coupons any plan of reorganization, plan of adjustment, or similar plan, proposed or approved in any such proceeding.

ARTICLE XVI

REMEDIES OF TRUSTEE AND BONDHOLDERS

SECTION 1. Except as provided in Section 3 of Article XIX, the Railroad Company will not, directly or indirectly, extend or assent to the extension of the time for the payment of any coupon or claim for interest on any of the Bonds, and it will not, directly or indirectly, be a party to or approve any such arrangement by purchasing or refunding said coupons or claims for interest or in any other manner; and if the time for payment of any such coupon or claim for interest shall be so extended with the consent of the Railroad Company, such coupon or claim for interest shall not be entitled, in case of default hereunder, to the benefit of the security of the Mortgage, except subject to the prior payment in full of the principal of all Outstanding Bonds and all coupons and claims for interest thereon the payment of which shall not have been so extended; provided, that the foregoing provisions of this Section 1 shall not be applicable to any coupon or claim for interest the time for the payment of which shall have been extended, if such extension was made pursuant to a plan proposed by the Railroad Company to all holders of any one or more series of Bonds. If, at or after the maturity of Bonds, any coupons or claims for interest in respect of such Bonds shall be owned by the Railroad Company, or shall be purchased by it or on its behalf, then such matured coupons or claims for interest shall not be entitled to the benefit or security of the Mortgage, and the Railroad Company covenants that all such matured coupons and claims for interest shall be cancelled promptly upon such maturity if then owned by the Railroad Company or upon their purchase if purchased by or on behalf of the Railroad Company at or after such maturity.

SECTION 2. If one or more of the following events, herein called Events of Default, shall occur, that is to say:

(a) Default shall be made in the payment of any instalment of interest on any of the Outstanding Bonds when and as such interest shall become due and payable as therein and in the Mortgage expressed, and such default shall continue for 90 days; or

(b) Default shall be made in the payment of the principal of any of the Outstanding Bonds, or the premium thereon payable on redemption thereof, when the same shall become due and payable either by the terms thereof or otherwise as herein provided; or

(c) Default shall be made in the observance or performance of any other of the covenants, conditions or agreements on the part of the Railroad Company, its successors or assigns, contained in the Bonds or in the Mortgage, and such default shall continue for 60 days (or in case of any default under a supplemental indenture for such other time, if any, as may be specified therein) after written notice specifying such default and requiring the same to be remedied shall have been given to the Railroad Company by the Trustee, which notice may be given by the Trustee in its discretion, and shall be given on the written request of the holders of 25% in principal amount of the then Outstanding Bonds; or

(d) A decree or order by a court having jurisdiction in the premises shall have been entered adjudging the Railroad Company a bankrupt or insolvent, or approving as properly filed a petition seeking reorganization of the Railroad Company under the Bankruptcy Act or any other state or federal law, and such decree or order shall have continued undischarged or unstayed for 60 days; or a decree or order of a court having jurisdiction in the premises for the appointment of a receiver or liquidator or trustee in bankruptcy or insolvency of the Railroad Company or of its property, or any substantial portion of its property, or for the winding up or liquidation of its affairs, shall have been entered, and such de-

cree or order shall have remained in force undischarged and unstayed for 60 days; or

(e) The Railroad Company shall institute proceedings to be adjudged a voluntary bankrupt, or shall consent to the filing of a bankruptcy proceeding against it, or shall file a petition or answer or consent seeking reorganization or readjustment under the Bankruptcy Act or any other state or federal law, or otherwise invoke any law for the aid of debtors, or shall consent to the filing of any such petition, or shall consent to the appointment of a receiver or liquidator or trustee in bankruptcy or insolvency of it or of its property or any substantial portion of its property, or shall make an assignment for the benefit of creditors; or shall admit in writing its inability to pay its debts generally as they become due, or corporate action shall be taken by the Railroad Company in furtherance of any of the aforesaid purposes;

then, and in each and every such case, the Trustee personally or by its agents or attorneys, to the extent permitted by law, may, but shall not be obligated to, enter into and upon all or any part of the mortgaged property, and each and every part thereof, and may exclude the Railroad Company, its agents and servants wholly therefrom; and having and holding the same may use, operate, manage and control the mortgaged property or any part thereof, and conduct the business of the Railroad Company, either personally or by the Railroad Company's superintendents, managers, agents, servants, attorneys, receivers or trustees, in such manner as the Trustee may deem to be to the best advantage of the Bondholders, and upon every such entry the Trustee, at the expense of the mortgaged property, from time to time, either by purchase, repair or construction, may maintain and restore the rolling stock, tools and machinery and other property, buildings, bridges and structures erected upon or provided for use in connection with said railways and other premises whereof it shall become possessed as aforesaid, and may insure or keep insured such

of the same as are usually insured by railway companies and in the same manner and to the same extent; and likewise from time to time, at the expense of the mortgaged property, may make all necessary or proper repairs, renewals and replacements and useful alterations, additions, betterments and improvements to and on the mortgaged property, and purchase or otherwise secure the use of additional engines, rolling stock, tools, machinery and other property for use thereon, as to it may seem judicious; and, in such case, the Trustee shall have the right to manage the mortgaged property and to carry on the business and exercise all rights and powers of the Railroad Company with respect thereto, either in the name of the Railroad Company or otherwise, as the Trustee shall deem best; and shall be entitled to collect and receive all rates, fares, tolls, earnings, incomes, rents, issues, revenues and profits of the same and every part thereof, including the income from stock, bonds or other obligations subject to the Mortgage; and after deducting the expenses of operating said railways and other premises, and of conducting the business thereof, and of all repairs, maintenance, renewals, replacements, alterations, additions, betterments and improvements, and all payments which may be made for taxes, assessments, insurance and prior or other proper charges upon the mortgaged property, or any part thereof, as well as just and reasonable compensation for its own services and for the services of all attorneys, counsel, agents, clerks, servants and other employees by it properly engaged and employed, the Trustee shall apply the rest and residue of the moneys arising as aforesaid as follows:

- (i) If the principal of none of the Outstanding Bonds shall have become due and be unpaid, to the payment of the interest on the Outstanding Bonds, in the order of the maturity of the instalments of such interest, such

payments to be made proportionately to the persons entitled thereto without discrimination or preference.

(ii) If the principal of all or any part of the Bonds shall have become due, by declaration or otherwise, and shall be unpaid, *first* to the payment of interest accrued on the Outstanding Bonds prior to the date upon which the principal of said Bonds became due and payable, in the order of the maturity of the instalments of such interest, and *second* to the payment of interest on the overdue principal of said Bonds at the highest rate of interest borne by any of the Outstanding Bonds, and *third* (subject to the provisions of Section 4 of this Article XVI), to the payment of the principal of all of said Bonds, whether due or not; in every instance such payments to be made proportionately to the persons entitled thereto without discrimination or preference.

These provisions, however, are not intended to and shall not be deemed in any wise to modify the provisions of Section 1 of this Article XVI but are subject thereto.

SECTION 3. If the Trustee, under the powers in the Mortgage granted, or a receiver or any trustee appointed under the provisions of the Bankruptcy Act, or any other state or federal law, shall have entered into possession of the mortgaged property, or a part thereof, or one or more Events of Default shall have occurred and be continuing, the Trustee (to the extent permitted by law) shall be entitled to exercise, while such default shall continue, all right and power to vote and consent with respect to all shares of stock, bonds and other obligations subject to the lien of the Mortgage, and, for the benefit of the Bondholders, shall be entitled to collect and receive all dividends on all shares of stock and all sums payable for principal, interest or otherwise upon any bonds or other obligations that shall then be subject to the Mortgage and shall apply, as hereinbefore in Section 2

of this Article XVI provided, any moneys so received; and, as the holder of any such shares of stock, bonds or other obligations, shall be entitled to perform any and all acts, or to make and execute any and all transfers, requests, requisitions or other instruments, for the purpose of carrying out the provisions of this Section 3.

SECTION 4. In case one or more Events of Default shall have occurred and be continuing, then in each and every such case, unless the principal of all the Outstanding Bonds already shall have become due and payable, the Trustee may, and upon the written request of the holders of 25% in principal amount of the Outstanding Bonds shall, by notice in writing mailed to the Railroad Company, declare the principal of all Bonds to be forthwith due and payable, and upon any such declaration the same shall become and be forthwith due and payable, together with all accumulations of unpaid interest, if any, notwithstanding the date of maturity thereof as stated in such Bonds or in the coupons, if any, pertaining thereto, or in the Mortgage. This provision, however, is subject to the condition that, if at any time after the principal of the Bonds shall have been so declared due and payable and before any judgment or decree for the payment of the moneys due shall have been obtained or entered as hereinafter provided or any sale of the mortgaged property or any part thereof shall have been made, all unpaid interest upon all Outstanding Bonds, and the principal (and premium, if any) of any Outstanding Bonds which shall have become due otherwise than by acceleration under this Section 4, and the reasonable charges and expenses of the Trustee, its agents and attorneys, shall either be paid by the Railroad Company or be collected out of the income of the mortgaged property, or be provided for by the deposit with the Trustee of a sum sufficient to pay the same, and

all other defaults made good to the satisfaction of the Trustee, then and in every such case the holders of two-thirds in principal amount of the Outstanding Bonds, by written notice to the Railroad Company and to the Trustee, may waive such default or defaults and its or their consequences and annul such declaration of the maturity of the Bonds, but no such waiver or annulment shall extend to or affect any subsequent default or impair any right consequent thereon.

In case the Trustee shall have proceeded to enforce any right under the Mortgage, by foreclosure, entry or otherwise, and such proceedings shall have been discontinued or abandoned because of such waiver or annulment, or for any other reason, or shall have been determined adversely to the Trustee, then and in every such case the Railroad Company and the Trustee shall be restored to their former position and rights hereunder in respect of the mortgaged property, and all rights, remedies and powers of the Railroad Company and of the Trustee shall continue thereafter as though no such proceedings had been taken.

SECTION 5. In case one or more Events of Default shall have occurred and be continuing, the Trustee, with or without entry, personally or by attorney, in its discretion:

(a) If and to the extent permitted by law, may but shall not be obligated to sell, subject to any prior liens thereon, to the highest bidder, all and singular the mortgaged property, and all right, title and interest, claim and demand therein, free from any right of redemption thereof, in one parcel and as an entirety, except as in Section 6 of this Article XVI provided; which sale or sales shall be made at public auction at such place in the City of Chicago, Illinois, or at such other place or places, and at such time and upon such terms, as the Trustee may fix and briefly specify in the notice of sale to be given as hereinafter in Section 7 of this Article XVI provided; or

(b) May proceed to protect and to enforce its rights and the rights of holders of the Outstanding Bonds by a suit or suits in equity or at law, whether for the specific performance of any covenant or agreement contained herein, or in aid of the execution of any power herein granted, or for the foreclosure of the Mortgage, or for the enforcement of any other appropriate legal or equitable remedy, as the Trustee, being advised by counsel, shall deem most effectual to protect and enforce any of its rights or duties and the rights of holders of the Outstanding Bonds.

Upon the written request of the holders of not less than 25% in principal amount of the then Outstanding Bonds, in case any Event of Default shall have occurred and be continuing as aforesaid, it shall be the duty of the Trustee, upon being indemnified as hereinafter provided, to exercise such one or more of the remedies available for the protection and enforcement of its rights and the rights of the Bondholders (including the exercise of the powers of entry or sale herein conferred, or the taking of appropriate judicial proceedings by action, suit or otherwise) as the Trustee, being advised by counsel, shall deem most expedient in the interest of the Bondholders.

SECTION 6. In the event of any sale, whether made under the power of sale herein granted or conferred, or under or by virtue of judicial proceedings, or of some judgment or decree of foreclosure and sale, the whole of the mortgaged property shall be sold in one parcel and as an entirety, unless such sale as an entirety is impracticable in the opinion of the Trustee by reason of some statute or other circumstance, or unless the holders of a majority in principal amount of the Outstanding Bonds shall in writing request the Trustee to cause said premises to be sold in parcels, in which case the sale shall be made in such parcels and in such order as may be specified in such request.

The Railroad Company, for itself and all persons and corporations hereafter claiming through or under it, or who may at any time hereafter become holders of liens junior to the lien of the Mortgage, hereby expressly waives and releases all right to have the mortgaged property marshalled upon any foreclosure or other enforcement hereof, and the Trustee or any court in which the foreclosure of the Mortgage or the administration of the trusts hereby created is sought shall have the right as aforesaid to sell the entire property of every description comprised in the mortgaged property, as a whole in a single lot or parcel.

SECTION 7. Notice of any sale pursuant to any provision of the Mortgage shall state the time and place of said sale, and shall contain a brief general description of the property to be sold, and shall be sufficiently given if published once in each week for 4 successive weeks prior to such sale in a Daily Newspaper in the Borough of Manhattan, City of New York, New York, and in a Daily Newspaper in the City of Chicago, Illinois, and in such other manner as may be required by law.

SECTION 8. The Trustee may adjourn from time to time any sale to be made by it under the provisions of the Mortgage, by announcement at the time and place appointed for such sale, or for such adjourned sale or sales, and without further notice or publication (unless otherwise required by law) such sale may be made at any time or place to which the same shall be so adjourned.

SECTION 9. Upon the completion of any sale or sales under the Mortgage, the Trustee or the court officer conducting the sale shall execute and deliver to the accepted purchaser or purchasers a good and sufficient bill or bills of sale and deed or deeds of conveyance of the property and franchises sold. The

Trustee and its successors are hereby irrevocably appointed the true and lawful attorneys of the Railroad Company, in its name and stead to make all necessary deeds, bills of sale and conveyances of the property and franchises and all necessary transfers of shares of stock or bonds or other obligations thus sold; and may substitute one or more persons with like power, the Railroad Company hereby ratifying and confirming all that its said attorney or attorneys, or such substitute or substitutes, shall lawfully do by virtue hereof. Nevertheless, the Railroad Company, if so requested by the Trustee, shall ratify such sale by executing and delivering such deeds of conveyance, bills of sale or other instruments of assignment and transfer, as in the judgment of the Trustee may be advisable.

Any such sale or sales made under or by virtue of the Mortgage, whether under the power of sale hereby granted and conferred, or under or by virtue of any judicial proceedings, shall operate to divest all right, title, interest, claim and demand whatsoever, either at law or in equity, of the Railroad Company, of, in and to the premises and property sold, and shall be a perpetual bar, both at law and in equity, against the Railroad Company, its successors and assigns, and against any and all persons claiming the premises and property sold, or any part thereof, from, through or under the Railroad Company, its successors or assigns.

The personal property and chattels conveyed, or intended to be conveyed, by or pursuant to the Mortgage, other than stocks and bonds and other obligations or securities or claims, shall be real property for all the purposes of the Mortgage, and shall be held and taken to be fixtures and appurtenances of the Railroad Company's lines of railroad and a part thereof, and are to be used and sold therewith and not separate therefrom, except as herein otherwise provided.

The receipt of the Trustee for the purchase money paid at any such sale, or the receipt of any other person authorized to receive the same, shall be a sufficient discharge therefor to any purchaser of the property, or any part thereof, sold as aforesaid, and no such purchaser, or his representatives, grantees or assigns, after paying such purchase money and receiving such receipt, shall be bound to see to the application of such purchase money or any part thereof upon or for any trust or purpose of the Mortgage, or, in any manner whatsoever, be answerable for any loss, misapplication or nonapplication of any such purchase money, or any part thereof, or be bound to inquire as to the authorization, necessity, expediency or regularity of any such sale.

SECTION 10. In case of a sale of the mortgaged property substantially as a whole under any of the foregoing provisions of this Article XVI, whether made under the power of sale hereby granted or pursuant to judicial proceedings, the principal of all Bonds then outstanding, if not previously due, immediately thereupon shall become due and payable, notwithstanding the date of maturity thereof as stated in such Bonds or in the Mortgage.

SECTION 11. The purchase money, proceeds and avails of any such sale, whether made under the power of sale hereby granted or pursuant to judicial proceedings, together with any other sums which then may be held by or for the Trustee under any of the provisions of the Mortgage as part of the mortgaged property or of the proceeds thereof, shall be applied as follows:

First. To the payment of the costs and expenses of such sale, the reasonable compensation to the Trustee, its agents, attorneys and counsel, all expenses, liabilities and advances made or incurred by the Trustee, except

such as may have arisen by its negligence or bad faith, and the payment of all taxes, assessments or liens prior to the lien of the Mortgage, except taxes, assessments and prior liens, if any, subject to which the property shall have been sold.

Second. To the payment of the whole amount then due and unpaid upon the Outstanding Bonds for principal and interest, with interest on the overdue principal at the highest rate of interest borne by any of the Outstanding Bonds, and in case such moneys shall be insufficient to pay in full the whole amount so due and unpaid upon the Outstanding Bonds, then to the payment of such principal and interest proportionately, according to the aggregate of such principal and accrued and unpaid interest, without preference or priority of any Outstanding Bond over any other Outstanding Bond of the same or of another series or of principal over interest, or of interest over principal, or of any instalment of interest over any other instalment of interest, subject, however, to the provisions of Section 1 of this Article XVI.

Third. To the payment of the surplus, if any, to the Railroad Company, its successors or assigns, or to whosoever may be lawfully entitled to receive the same, or as a court of competent jurisdiction may direct.

SECTION 12. In case of any sale under the foregoing provisions of this Article XVI, whether made under the power of sale hereby granted or pursuant to judicial proceedings, any purchaser, for the purpose of making settlement or payment for the property purchased, shall be entitled to use and apply any Bonds and any matured and unpaid coupons and interest obligations hereby secured, subject to the provisions of Section 1 of this Article XVI, by presenting such Bonds and coupons in order that there may be credited as paid thereon the sums payable out of the net proceeds of such sale to the holder or registered owner of such Bonds and coupons, as his propor-

tionate share of such net proceeds; and such purchaser shall be credited on account of the purchase price payable by him with the sums payable out of such net proceeds which shall be applicable to the payment of and which shall have been credited, upon the Bonds and coupons so presented; and, at any such sale, any Bondholder may bid for and purchase such property, and may make payment therefor as aforesaid, and, upon compliance with the terms of said sale, may hold, retain and dispose of such property without further accountability therefor.

SECTION 13. The Railroad Company covenants that (a) if default shall be made in the payment of any interest on any Outstanding Bonds, or (b) if default shall be made in the payment of the principal of any Outstanding Bonds, or the premium thereon payable on redemption thereof, when the same shall become due and payable, whether at the maturity of such Bonds, upon redemption, by declaration or by a sale of the mortgaged property, or otherwise, then, upon demand of the Trustee, the Railroad Company will pay to the Trustee for the benefit of the holders of such Bonds and coupons the whole amount then due and payable on such Bonds and coupons, for principal (and premium, if any) or interest, or both, as the case may be, with interest on the overdue principal at the highest rate of interest borne by any of the Outstanding Bonds; and in case the Railroad Company shall fail to pay the same forthwith upon such demand, the Trustee, in its own name and as Trustee of an express trust, shall be entitled to recover judgment for the whole amount so due and unpaid.

The Trustee shall be entitled to institute and prosecute any action and enforce any judgment or final decree as aforesaid, either before or after or during the pendency of any proceedings for the enforcement of the lien of the Mortgage, and

the right of the Trustee to such judgment or final decree shall not be affected by any entry or sale hereunder, or by the exercise of any other right, power or remedy for the enforcement of the provisions of the Mortgage or the foreclosure of the lien hereof; and in case of a sale of the mortgaged property or any part thereof, the Trustee, in its own name and as trustee of an express trust, shall be entitled to enforce payment of, and to receive, all amounts then remaining due and unpaid upon any and all of the Bonds and coupons, for the benefit of the holders thereof, and shall be entitled to institute and prosecute any action and enforce any judgment or final decree as aforesaid for any portion of the said debt remaining unpaid, with interest. No judgment or decree obtained by the Trustee, and no levy of any execution upon the mortgaged property, or upon any other property, shall in any manner, or to any extent, affect the lien of the Mortgage upon the mortgaged property, or any part thereof, or any lien, rights, powers or remedies of the Trustee hereunder, or any lien, rights, powers or remedies of the Bondholders, but such lien, rights, powers and remedies shall continue unimpaired as before, except as otherwise provided by law.

Any moneys collected by the Trustee under this Section 13 shall be applied by the Trustee,

First, to the payment of the costs and expenses of the proceedings resulting in the collection of such moneys, and of the compensation of and the expenses, liabilities and advances made or incurred by the Trustee hereunder, except such as may have arisen by its negligence or bad faith; and

Second, to the payment of the amounts then due and unpaid upon the Outstanding Bonds and coupons in respect of which such moneys shall have been collected, without any preference or priority of any kind, but subject to the provisions of Section 1 of this Article XVI,

proportionately according to the amounts due and payable upon such Outstanding Bonds and coupons, respectively, at the date fixed by the Trustee for distribution of such moneys, upon presentation of the several Outstanding Bonds and coupons and their surrender if fully paid, or for proper stamping if only partially paid.

SECTION 14. The Railroad Company will not at any time insist upon or plead, or claim to take advantage of any statute or rule of law, now or hereafter in force, wherever enacted or established, in aid of debtors or permitting or providing for (a) the staying of actions in respect of mortgages or mortgage indebtedness, or for extending the time for payment of such indebtedness; (b) the valuation or appraisal of the property held under any mortgage or pledge to secure indebtedness prior to any sale or sales thereof pursuant to the terms of such mortgage or pledge or to the decree, judgment or order of any court; or (c) the redemption of any property so sold; and the Railroad Company hereby expressly waives all benefit and advantage of any such statute or rule of law, and covenants that it will not hinder, delay or impede the execution of any power herein granted or delegated to the Trustee, but that it will suffer and permit the execution of every such power, as though no such statute or rule of law had been enacted or established.

SECTION 15. In case (1) an Event of Default shall occur and (a) at any time during the continuance of such Event of Default there shall be any existing judgment against the Railroad Company unsatisfied and unsecured by bond on appeal or (b) in any judicial proceeding by any party other than the Trustee, a receiver shall be appointed of the Railroad Company or of its property or any part thereof, or a judgment or order be entered for the sequestration of its property or any part thereof; or, in case (2) the Railroad

Company shall make default in the payment of interest specified in clause (a) of Section 2 of this Article XVI, and shall by resolution of its Board of Directors admit to the Trustee its inability to make good such default; then the Trustee, in either such case, shall thereupon be entitled, in the discretion of the Trustee, forthwith to exercise the right of entry herein conferred and also any and all other rights and powers herein conferred and provided to be exercised by the Trustee upon the happening and continuance of an Event of Default as hereinbefore provided; and the Trustee shall thereupon be entitled as a matter of right (i) to the appointment of a receiver of the mortgaged property and of the earnings, rents, issues, profits, tolls, revenues and income thereof, with such powers as the court making such appointment shall confer, and (ii) to the entry of an order directing that the rents, issues, profits, tolls, revenues and other income of the premises and property comprised in the mortgaged property be segregated, sequestered and impounded for the benefit of the Trustee and the Bondholders from and after the date of the institution of any judicial proceedings of the nature referred to in this Section 15 or in clauses (d) and (e) of Section 2 of this Article XVI. Notwithstanding the appointment of any such receiver, the Trustee, as pledgee, shall be entitled to retain possession and control of, and to collect all interest and dividends or earnings on, any shares of stock, cash, bonds and other obligations pledged with it as security hereunder.

The Railroad Company hereby irrevocably consents to the appointment of such receiver and to the entry of such order.

SECTION 16. Upon application of the Trustee to any court of competent jurisdiction, and with the consent of the Railroad Company if none of the Events of Default shall have occurred and be continuing, and without such consent if one or more of the Events of Default shall have occurred and be

continuing, a receiver may be appointed to take possession of, and to operate, maintain and manage the mortgaged property or any part thereof, and any other property of the Railroad Company used for, in or about, or the use or possession whereof shall be essential to, the operation of the mortgaged railroads or any thereof, and the Railroad Company shall transfer and deliver to such receiver all such property, wheresoever the same may be situated; and in every case when a receiver of the whole or of any part of said property shall be appointed under this Section 16, or otherwise, the net income and profits of the mortgaged property shall be paid over to, and shall be received by, the Trustee for the benefit of the holders of the Outstanding Bonds and coupons to be applied as provided in Section 2 of this Article XVI; provided, however, that, notwithstanding the appointment of any such receiver, the Trustee shall be entitled to retain control of, and to collect all interest and dividends or earnings on, any shares of stock, cash, bonds and other obligations pledged with it as security hereunder.

SECTION 17. No holder of any Bond or coupon shall have any right to institute any suit, action or proceeding in equity or at law for the foreclosure of the Mortgage, or for the execution of any trust hereunder, including the appointment of a receiver, or for any other remedy hereunder, unless (a) such holder previously shall have delivered to the Trustee written notice that one or more Events of Default, which default or defaults shall be specified in such notice, has occurred and is continuing, and (b) the holders of not less than 25% in principal amount of the then Outstanding Bonds shall have requested the Trustee in writing and shall have afforded to it reasonable opportunity either to proceed to exercise the powers hereinbefore granted, or to institute such action, suit or proceeding in its own name, and (c) one or more

holders of Bonds shall have offered to the Trustee adequate security and indemnity, satisfactory to it, against the costs, expenses and liabilities to be incurred therein or thereby, nor unless the Trustee shall have refused or neglected to act on such notification, request and offer of indemnity for at least 30 days; and such notification, request and offer of indemnity are hereby declared, in every such case, at the option of the Trustee, to be conditions precedent to the exercise of the powers and trusts of the Mortgage and to any action or cause of action for foreclosure, including the appointment of a receiver or trustee, or for any other remedy hereunder; it being understood and intended that no holder of any Bond or coupon shall have any right in any manner whatsoever by his action to affect, disturb or prejudice the lien of the Mortgage or to enforce any right hereunder, except in the manner herein provided, and that all proceedings at law or in equity shall be instituted, had or maintained in the manner herein provided, and for the equal benefit of all holders of the Outstanding Bonds and coupons.

Nothing contained in this Section 17 or elsewhere in the Mortgage or in the Bonds or in the coupon shall affect or impair the obligation of the Railroad Company, which is unconditional and absolute, to pay the principal of, premium, if any, and interest on the Bonds to the respective holders of the Bonds and to the respective holders of the coupons, as provided in such Bonds, nor affect or impair the right of action at law, which is also absolute and unconditional, of such holders to collect such payment.

SECTION 18. Except as herein expressly provided to the contrary, no remedy herein conferred upon or reserved to the Trustee or the Bondholders is intended to be exclusive of any other remedy or remedies, but each and every such remedy shall be cumulative, and shall be in addition to every other

remedy given hereunder, or now or hereafter existing at law or in equity or by statute.

SECTION 19. No delay of the Trustee or of any Bondholder in exercising any right or power accruing upon any default continuing as aforesaid and no omission to exercise any such right or power shall impair any such right or power or shall be construed to be a waiver of any such default, or an acquiescence therein; and every power and remedy given by this Article XVI to the Trustee, or to any Bondholder, may be exercised from time to time, and as often as may be deemed expedient, by the Trustee or by such Bondholder, respectively.

SECTION 20. The Trustee shall have power, but shall be under no duty, to institute and maintain suits or proceedings to restrain the enforcement of, or compliance with, or the observance of, any legislative or governmental enactment, rule or order that it may be advised and believe is unconstitutional, or otherwise invalid, if the enforcement of, or compliance with, or observance of, such enactment, rule or order would, in the judgment of the Trustee, impair the security hereunder or be prejudicial to the Trustee or to the Bondholders.

SECTION 21. The holders of a majority in aggregate principal amount of the Outstanding Bonds shall have the right to direct the time, method, and place of conducting any proceeding for any remedy available to the Trustee, or the exercise or non-exercise of any trust or power conferred on the Trustee. The holders of a majority in aggregate principal amount of the Outstanding Bonds may on behalf of the holders of all of the Bonds waive any past default hereunder and its consequences except an Event of Default specified in clauses (a) or (b) of Section 2 of this Article XVI. In the case of any such waiver, the Railroad Company, the Trustee

and the Bondholders shall be restored to their former positions and rights hereunder, respectively; but no such waiver shall extend to any subsequent or other default or impair any right consequent thereon.

SECTION 22. All parties to the Mortgage agree, and each holder of any Bond by his acceptance thereof shall be deemed to have agreed, that any court may in its discretion require, in any suit for the enforcement of any right or remedy under this Mortgage, or in any suit against the Trustee for any action taken or omitted by it as Trustee, the filing by any party litigant in such suit of an undertaking to pay the costs of such suit, and that such court may in its discretion assess reasonable costs, including reasonable attorneys' fees, against any party litigant in such suit, having due regard to the merits and good faith of the claims or defenses made by such party litigant; but the provisions of this Section 22 shall not apply to any suit instituted by the Trustee, to any suit instituted by any Bondholder or group of Bondholders holding more than 10% in aggregate principal amount of the Outstanding Bonds, or to any suit instituted by any Bondholder for the enforcement of the payment of the principal of or interest on any Bond, on or after the due date expressed in such Bond.

SECTION 23. To the extent that any provision of this Article XVI may be invalid or unenforceable under any applicable law with respect to any of the mortgaged property, such provision shall be deemed inoperative and inapplicable.

ARTICLE XVII

IMMUNITY OF INCORPORATORS, STOCKHOLDERS, DIRECTORS
AND OFFICERS

The Mortgage and the Bonds and coupons are solely corporate obligations. No recourse shall be had for the payment of the principal of or the interest on any Bond, or for any claim based thereon or on any coupon appurtenant thereto, or because of the creation of the indebtedness represented thereby, or otherwise in respect thereof, or based on or in respect of the Mortgage, against any past, present or future incorporator, stockholder, officer or director of the Railroad Company, as such, whether by virtue of any constitution, statute or rule of law or by the enforcement of any assessment or penalty or otherwise, all such liability, by the acceptance of such Bond and as part of the consideration for the issuance thereof, being expressly waived and released.

ARTICLE XVIII

DEFEASANCE

SECTION 1. If (a) the Railroad Company shall deliver to the Trustee for cancellation all Bonds and appurtenant coupons not theretofore cancelled and delivered to the Trustee, or (b) all Bonds not theretofore delivered to the Trustee cancelled or for cancellation shall have become due and payable, or are by their terms to become due and payable within 90 days or are to be redeemed within 90 days under arrangements satisfactory to the Trustee for the giving of notice of redemption, and the Railroad Company shall deposit with the Trustee as trust funds an amount sufficient to pay at maturity or upon redemption all of the Bonds not theretofore delivered to the Trustee cancelled or for cancellation, including the principal thereof, premium, if any, and the full amount of unpaid interest which has or will become due to such date of maturity or redemption, as the case may be, and if in either case the Railroad Company shall also pay or cause to be paid all other sums payable hereunder by the Railroad Company, then the Mortgage shall cease to be of further effect. In such event the Trustee, on demand of the Railroad Company and at its cost and expense, shall execute and deliver to the Railroad Company such instrument or instruments as may be appropriate to acknowledge satisfaction of the Mortgage, and as will enable the Railroad Company to have the Mortgage discharged of record, and shall release and assign, or cause to be released and assigned, to the Railroad Company all of its interest in the mortgaged property, and shall deliver to the Railroad Company or upon its order all securities and moneys then held by the Trustee under the provisions hereof other than the money deposited as above provided in this Article XVIII.

The Railroad Company, notwithstanding the satisfaction of the Mortgage as above provided, will indemnify the Trustee and hold it harmless against any and all expense or liability, incurred without negligence or bad faith, ascertained

or incurred by the Trustee after the satisfaction thereof arising out of or based upon any matter connected with the trust created by the Mortgage.

SECTION 2. All moneys deposited with the Trustee pursuant to Section 1 of this Article XVIII shall be held in trust and applied by it to the payment to the holders of the Bonds and coupons of all sums due and to become due thereon for principal and interest and premium, if any.

SECTION 3. Upon the satisfaction and discharge of the Mortgage, all moneys then held by any paying agent under any provision of the Mortgage shall be paid to the Trustee, and thereupon such paying agent shall be released from all further liability with respect to such moneys.

SECTION 4. Any moneys deposited by the Railroad Company with the Trustee or with any paying agent for the payment of the principal of, or the premium or interest on, any Bond which shall remain unclaimed by the holder of the Bond or coupon entitled to receive the same for 10 years after the date upon which the principal of such Bond shall have become due and payable (upon redemption or otherwise) shall be repaid to the Railroad Company on demand; and the holder of any Bond or coupon entitled to receive such payment shall thereafter look only to the Railroad Company for the payment thereof; provided, however, that (a) before any such repayment may be made, the Trustee, at the expense of the Railroad Company, shall cause to be published once a week for two successive calendar weeks (in each case on any day of the week) in a Daily Newspaper in the Borough of Manhattan, City of New York, New York, and in a Daily Newspaper in the City of Chicago, Illinois, a notice that said moneys have not been claimed and that after a date named therein any balance of said moneys then remaining will be returned to the Railroad Company, and (b) the amount of such repayment shall be limited to the balance of such moneys unclaimed at the close of business on such date.

ARTICLE XIX

SUPPLEMENTAL INDENTURES

SECTION 1. The Railroad Company, when authorized by a resolution of its Board of Directors, and the Trustee may from time to time and at any time enter into an indenture or indentures supplemental hereto for one or more of the following purposes:

(a) To convey, transfer and assign to the Trustee and subject to the lien of the Mortgage, with the same force and effect as though included in the granting clauses hereof, additional property then owned by the Railroad Company, acquired through consolidation, merger, purchase or otherwise;

(b) To evidence the succession of another corporation to the Railroad Company, or successive successions, and the assumption by the successor corporation of the covenants, agreements and obligations of the Railroad Company pursuant to Article XII;

(c) To set forth the terms and provisions of any series of Bonds to be issued hereunder and the form of the Bonds and coupons of such series;

(d) To add to the covenants of the Railroad Company such further covenants for the protection of the mortgaged property and the Bondholders as the Board of Directors and the Trustee shall consider to be for the protection of the Bondholders, and to make the occurrence and continuance of a default under any of such additional covenants a default permitting the enforcement of all or any of the several remedies provided in the Mortgage; provided, however, that in respect of any such additional covenant, such supplemental indenture may provide for a particular period of grace after default (which period may be shorter or longer than that allowed in the case of other defaults) or may provide for an immediate enforcement of said remedy or remedies upon

such default or may limit the remedies available to the Trustee upon such default or may authorize the holders of not less than a majority in aggregate principal amount of the Outstanding Bonds to waive such default and prescribe limitations on such rights of waiver; and

(e) To cure any ambiguity or to correct or supplement any provision contained in the Mortgage which may be defective or inconsistent with any other provision contained herein or in any supplemental indenture, or to make such other provisions in regard to matters or questions arising under the Mortgage as shall not be inconsistent with the provisions of the Mortgage and shall not adversely affect the interest of the Bondholders.

The Trustee is hereby authorized to join with the Railroad Company in the execution of any such supplemental indenture, to make any further appropriate agreements and stipulations which may be therein contained and to accept the conveyance, transfer and assignment of any property thereunder, but the Trustee shall not be obligated to enter into any such supplemental indenture which, in its opinion, affects the Trustee's own rights, duties or immunities under the Mortgage or otherwise.

Any supplemental indenture authorized by the provisions of this Section 1 may be executed by the Railroad Company and the Trustee without the consent of the holders of any of the then Outstanding Bonds, notwithstanding any of the provisions of Section 2 of this Article XIX.

SECTION 2. With the consent (evidenced as provided in Section 1 of Article XIII) of the holders of not less than 66⅔% in aggregate principal amount of the Outstanding Bonds to be directly affected thereby, and with the approval of the Interstate Commerce Commission or other public regulatory body having jurisdiction in the premises, the Railroad

Company, when authorized by a resolution of its Board of Directors, and the Trustee at any time and from time to time, by entering into an indenture or indentures supplemental hereto may:

(a) modify, alter, add to or eliminate any of the provisions of the Mortgage or the rights of the holders of the Bonds and coupons to be directly affected thereby or the rights and obligations of the Railroad Company, except as provided in Section 3 of this Article XIX;

(b) sanction any compromise of the rights of the holders of such Bonds against the Railroad Company or against its property whether such right shall arise under the provisions of the Mortgage or otherwise;

(c) sanction and approve any plan for the reorganization, readjustment or liquidation of the Railroad Company;

provided, however, that no such modification, alteration, addition, elimination, sanction or approval shall, without in each case the consent of the holders of all Bonds affected thereby,

(i) alter or impair the obligation of the Railroad Company to pay the principal amount of or the interest on any Bonds, or change the place or medium of payment thereof; or

(ii) permit the creation by the Railroad Company of any mortgage or other lien ranking prior to or on a parity with the lien of the Mortgage with respect to any property covered thereby except as in the Mortgage otherwise expressly provided; or

(iii) effect a reduction of the percentage required for any action authorized to be taken by the holders of the Bonds;

and provided further that no such modification, alteration, addition or elimination shall affect the rights, duties or im-

munities of the Trustee without the written consent of the Trustee.

It shall not be necessary for the consent of the Bondholders under this Section 2 to approve the particular form of any proposed supplemental indenture, but it shall be sufficient if such consent shall approve the substance thereof.

SECTION 3. With the consent (evidenced as provided in Section 1 of Article XIII) of the holders of not less than 75% in aggregate principal amount of all of the then Outstanding Bonds, and with the approval of the Interstate Commerce Commission or other public regulatory body having jurisdiction in the premises, the Railroad Company, when authorized by a resolution of its Board of Directors, and the Trustee at any time and from time to time by entering into an indenture or indentures supplemental hereto, may:

(a) extend the time or times of payment of the principal, either before or after the principal is due, of the Bonds of any or all series which at the time shall be outstanding, whether bearing fixed or contingent interest, for a period of not exceeding 20 years beyond the original date or dates designated in such Bonds for the payment of the principal thereof, or

(b) extend the time or times of payment of any fixed interest or accumulations of contingent interest, either before or after the interest is due, on the Bonds of any or all series which at the time shall be outstanding, whether bearing fixed or contingent interest, for a period of not exceeding 5 years after such interest is due, but in no event beyond the original or extended date or dates for the payment of the principal of such Bonds.

SECTION 4. Upon the request of the Railroad Company, accompanied by a Certified Resolution authorizing the execution of any supplemental indenture pursuant to the preceding

Sections of this Article XIX, and upon the filing with the Trustee of evidence of the consent of Bondholders as aforesaid, the Trustee shall join with the Railroad Company in the execution of such supplemental indenture.

SECTION 5. Upon the execution of any supplemental indenture pursuant to the provisions of this Article XIX, the Mortgage shall be and be deemed to be modified and amended in accordance therewith and the respective rights, duties and obligations under the Mortgage of the Railroad Company, the Trustee and the holders of Bonds of all series outstanding thereunder shall thereafter be determined, exercised and enforced hereunder subject in all respects to such modifications and amendments, and all the terms and conditions of any such supplemental indenture shall be and be deemed to be part of the terms and conditions of the Mortgage for any and all purposes.

SECTION 6. Bonds authenticated and delivered after the execution of any supplemental indenture pursuant to the provisions of this Article XIX may bear a notation in form approved by the Trustee as to any matter provided for in such supplemental indenture. If the Railroad Company or the Trustee shall so determine, new Bonds so modified as to conform, in the opinion of the Trustee and the Board of Directors, to any modification of the Mortgage contained in any such supplemental indenture may be prepared by the Railroad Company, authenticated by the Trustee and delivered without expense to the holders of Bonds of the same series then outstanding, upon surrender of such Bonds accompanied, in the case of coupon Bonds, by all unmatured coupons and all unpaid matured coupons which shall be appurtenant thereto, the new Bonds so issued to be of an aggregate principal amount equal to the aggregate principal amount of those so surrendered.

ARTICLE XX

MISCELLANEOUS

SECTION 1. The same officer or officers of the Railroad Company, or the same engineer, accountant or counsel or other person, as the case may be, need not certify to all the matters required to be certified under the provisions of any Article or Section of the Mortgage, but different officers, engineers, accountants, counsel or other persons may certify to different matters respectively.

SECTION 2. Each Officers' Certificate or Opinion of Counsel required to be given responsive to a specified condition or covenant provided for in the Mortgage shall include: (1) a statement that the person making such certificate or giving such opinion has read such covenant or condition; (2) a statement that, in the opinion of such person, he has made such examination or investigation as is necessary to enable him to express an informed opinion as to whether or not such covenant or condition has been complied with; and (3) a statement as to whether or not, in the opinion of such person, such condition or covenant has been complied with.

SECTION 3. Except as otherwise expressly provided herein, nothing in the Mortgage or in any of the Bonds or coupons, express or implied, is intended or shall be construed to confer upon or give to any person, firm or corporation other than the parties hereto and the holders from time to time of the Bonds or coupons issued under the Mortgage any security, right, remedy or claim, legal or equitable, under or by reason of the Mortgage, or under or by reason of any covenant, condition or stipulation herein contained; and the Mortgage and all covenants, conditions and provisions herein contained are and shall be held to be for the sole and ex-

clusive benefit of the parties hereto and the holders from time to time of the Bonds and coupons issued hereunder.

SECTION 4. The Railroad Company shall be entitled to obtain from the Trustee from time to time such certificates and statements of the latter as to matters related to the Mortgage which are within its knowledge as the Railroad Company shall find it necessary or advisable to file with the trustee of the General Mortgage for any of the purposes thereof.

SECTION 5. The Mortgage may be executed in any number of counterparts, each of which shall be an original; but such counterparts shall together constitute but one and the same instrument.

SECTION 6. The Mortgage is dated as of January 1, 1944, although executed and delivered on the date of the acknowledgment hereof by the Trustee; and the same shall be effective by order of the Court in the reorganization proceedings hereinbefore mentioned as of 12:01 A.M., Central Standard Time, on December 1, 1945.

IN WITNESS WHEREOF, CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY, the party of the first part, has caused the Mortgage to be signed and acknowledged by its President or one of its Vice Presidents, and its corporate seal to be affixed hereunto, and the same to be attested by its Secretary or its Assistant Secretary; and Continental Illinois National Bank and Trust Company of Chicago, the party of the second part, to evidence its acceptance of the trust hereby created, has caused the Mortgage to be signed and acknowledged by one of its Vice Presidents and its corporate seal to be affixed hereunto and the same to be attested by one of its Assistant Secretaries. Executed and delivered in the City

of Chicago, State of Illinois, the 4th day of December, 1945,
as of the day and year first written above.

CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC
RAILROAD COMPANY

By H. A. SCANDRETT
(CORPORATE SEAL) *President*

Attest:

T. W. BURTNESSE
Secretary

In the presence of

RAY GARRETT
WILLARD P. SCOTT

CONTINENTAL ILLINOIS NATIONAL BANK AND
TRUST COMPANY OF CHICAGO

By F. E. MUSGROVE
(CORPORATE SEAL) *Vice President*

Attest:

V. P. NELSON
Assistant Secretary

In the presence of

E. J. FRIEDRICH
PAUL B. ROBB

STATE OF ILLINOIS }
COUNTY OF COOK } ss.

On this 4th day of December, in the year 1945, before me, Henry L. Fortier, a Notary Public in and for the State and County aforesaid, personally appeared H. A. Scandrett and T. W. Burtness, to me personally known and known to me to be the President and Secretary, respectively, of Chicago, Milwaukee, St. Paul and Pacific Railroad Company, the corporation described in and which executed the foregoing instrument, and known to me to be the identical persons whose names are subscribed to and who executed the foregoing instrument on behalf of said corporation, who, being by me duly sworn, did severally say and acknowledge that they are the President and Secretary, respectively, of said Chicago, Milwaukee, St. Paul and Pacific Railroad Company, that the seal affixed to the foregoing instrument is the corporate seal of said corporation and was affixed thereto by authority of its Board of Directors and that said instrument was signed, sealed and executed by them in the name and on behalf of said corporation by like authority; and said H. A. Scandrett and T. W. Burtness severally acknowledged that they signed, sealed and delivered said instrument in the name and on behalf of said corporation as their free and voluntary act and deed as such President and Secretary, respectively, and by authority of the Board of Directors of said corporation, and that said instrument was voluntarily executed by said corporation as its free and voluntary act and deed, for the uses and purposes therein set forth.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal this 4th day of December, 1945.

HENRY L. FORTIER

Henry L. Fortier,

Notary Public in and for the State of Illinois,
County of Cook, Residing at Chicago, therein.
My Commission Expires Feb. 26, 1948.

(NOTARIAL SEAL)

STATE OF ILLINOIS }
COUNTY OF COOK } ss.

On this 4th day of December, in the year 1945, before me, H. J. Groener, a Notary Public in and for the State and County aforesaid, personally appeared F. E. Musgrove and V. P. Nelson, to me personally known and known to me to be a Vice President and an Assistant Secretary, respectively, of Continental Illinois National Bank and Trust Company of Chicago, the corporation described in and which executed the foregoing instrument, and known to me to be the identical persons whose names are subscribed to and who executed the foregoing instrument on behalf of said corporation, who, being by me duly sworn, did severally say and acknowledge that they are a Vice President and an Assistant Secretary, respectively, of said Continental Illinois National Bank and Trust Company of Chicago, that the seal affixed to the foregoing instrument is the corporate seal of said corporation and was affixed thereto by authority of its Board of Directors and that said instrument was signed, sealed and executed by them in the name and on behalf of said corporation by like authority; and said F. E. Musgrove and V. P. Nelson severally acknowledged that they signed, sealed and delivered said instrument in the name and on behalf of said corporation as their free and voluntary act and deed as such Vice President and Assistant Secretary, respectively, and by authority of the Board of Directors of said corporation, and that said instrument was voluntarily executed by said corporation as its free and voluntary act and deed for the uses and purposes therein set forth.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal this 4th day of December, 1945.

H. J. GROENER

H. J. Groener,

Notary Public in and for the State of Illinois,
County of Cook, and residing at Oak Park
therein.

My Commission Expires April 28, 1948.

(NOTARIAL SEAL)

STATE OF ILLINOIS }
COUNTY OF COOK } ss.

H. A. SCANDRETT, being first duly sworn, deposes and says that he is President of Chicago, Milwaukee, St. Paul and Pacific Railroad Company, a corporation organized and existing under the laws of the State of Wisconsin, which executed as mortgagor the Indenture of Mortgage and Deed of Trust to which this affidavit is appended, that the consideration of said mortgage was actual and adequate, that the same was given in good faith for the purposes therein set forth to secure the amount named therein, and without any design to hinder, delay or defraud creditors, and that Continental Illinois National Bank and Trust Company of Chicago, the trustee and mortgagee named in said mortgage, has delivered to said Railroad Company, and said Railroad Company has received, a duplicate copy of said mortgage so executed.

H. A. SCANDRETT

Subscribed and sworn to before me this 4th day of December, 1945.

HENRY L. FORTIER

Henry L. Fortier,

(NOTARIAL SEAL)

Notary Public in and for the State of Illinois,
County of Cook, Residing at Chicago, therein.
My Commission Expires Feb. 26, 1948.

NOTE: In the counterpart of the foregoing Mortgage filed for record with the Secretary of State of the State of Wisconsin there was attached to each of the acknowledgments a certificate of magistracy dated December 5, 1945, signed by Michael J. Flynn, County Clerk of the County of Cook, State of Illinois, with the seal of said County affixed, certifying to the official character and the genuineness of the signatures of Henry L. Fortier and H. J. Groener as notaries public in and for said county and state and their authority to take acknowledgments and proofs of deeds or conveyances.